S. HRG. 98-476

BOGGS AND O'CONNOR NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF DANNY J. BOGGS TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF ENERGY; AND RAYMOND J. O'CONNOR TO BE CHAIRMAN OF THE FEDERAL ENERGY REGULATORY COMMISSION

OCTOBER 17, 1983

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
29-365 O WASHINGTON : 1984

S311-10

COMMITTEE ON ENERGY AND NATURAL RESOURCES

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, JR., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania
DANIEL J. EVANS, Washington

J. BENNETT JOHNSTON, Louisiana
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey

MICHAEL D. HATHAWAY, *Staff Director*
CHARLES A. TRABANDT, *Chief Counsel*
D. MICHAEL HARVEY, *Chief Counsel for the Minority*

CONTENTS

STATEMENTS

	Page
Boggs, Danny J., nominee to be Deputy Secretary of the Department of Energy	2
McClure, Hon. James A., a U.S. Senator from the State of Idaho	1
O'Connor, Raymond J., nominee to be Chairman of the Federal Energy Regulatory Commission	14

APPENDIXES

APPENDIX I

Informational statements of:	
Danny J. Boggs	25
Raymond J. O'Connor	42

APPENDIX II

Responses to additional committee questions from:	
Danny J. Boggs	61
Raymond J. O'Connor	77

BOGGS AND O'CONNOR NOMINATIONS

MONDAY, OCTOBER 17, 1983

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room SD-366, Dirksen Office Building, Hon. James A. McClure (chairman) presiding.

Present: Senators McClure, Domenici, and Warner.

Also present: Charles A. Trabandt, chief counsel; E. David Doane, deputy chief counsel—energy; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. Good morning. The committee will come to order. This is a hearing to consider the Presidential nominations of Danny J. Boggs to be Deputy Secretary of the Department of Energy, and Raymond J. O'Connor to be Chairman of the Federal Energy Regulatory Commission.

Our first witness this morning will be Mr. Boggs. As Deputy Secretary of Energy, Mr. Boggs would have a major role in formulating and implementing our Nation's energy policies. He would serve with the Secretary in carrying out the responsibilities delegated to the Department by both the Congress and the President. The Deputy Secretary also assists the Secretary in representing the Department's views before the public and presenting its policy positions to the Congress.

Mr. Boggs brings to the Department of Energy substantial experience in the field of energy, and particularly energy policy. Since 1981 he has served in the White House as Assistant Director of the Office of Policy Development and Executive Secretary of the Cabinet Council on Natural Resources and Environment. Mr. Boggs has also served on the staff of this committee and as assistant to the Chairman of the Federal Power Commission.

We have, as you know, Mr. Boggs, a list of questions we ask of all the members, all persons who are submitted to us for confirmation, and we require the response and the testimony of all such witnesses be under oath. So would you please stand and raise your right hand.

[Whereupon, Danny J. Boggs was duly sworn by the chairman.]

The CHAIRMAN. Thank you very much. These four questions which we ask of all such executive nominees are as follows:

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. BOGGS. Yes, sir, I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception. Do you have any objection to the publication of your informational statement?

Mr. BOGGS. No, sir. I have no objection.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. BOGGS. No, sir. I am aware of no such conflict.

The CHAIRMAN. Are you involved, or do you have any assets held in a blind trust?

Mr. BOGGS. No, sir, I do not.

The CHAIRMAN. Mr. Boggs, you may proceed with your statement in whatever manner you desire at this point.

STATEMENT OF DANNY J. BOGGS, NOMINEE TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF ENERGY

Mr. BOGGS. Mr. Chairman, I have submitted a statement for the record and I would just touch on a few high points of it.

I appreciate the opportunity to come before you as President Reagan's nominee for the position of Deputy Secretary of the Department of Energy.

I am a lawyer by profession, and most of my career has been in the field of law and public policy. As you noted, my energy experience has been primarily since 1975 when I was chosen as assistant to the chairman of the Federal Power Commission. At the Federal Power Commission, I dealt with the entire range of natural gas and electric regulation issues within the purview of the Commission.

From 1977 to 1979, I served on the staff of this Committee as Deputy Minority Counsel. During 1980, I was of counsel to the law firm of Bushnell, Gage, Reizen & Byington. During the transition period following President Reagan's election, I was the transition team leader for the Federal Energy Regulatory Commission.

Since the beginning of the administration I have served in the White House Policy Development Office with the current title of Assistant Director and Special Assistant to the President. I have been the Executive Secretary of the Cabinet Council on Natural Resources and Environment since its inception.

The position to which the President has nominated me represents a new step for me into a line position in energy activities, rather than primarily a staff position. I seek to serve in this job to advance the energy policy which President Reagan has espoused during his term of office. As this hearing is being held on the 1,000th full day of President Reagan's administration, I think it is appropriate to reiterate the President's recent statement that our

energy situation has improved over that period. I look forward to working with the Congress and the other members of the administration to continue this progress.

I appreciate and look forward to the opportunity of serving with Don Hodel as Secretary. I share his strongly stated policy that we must work toward stabilizing and making the best use of the professional staff of the Department of Energy. I also share his strong view on the desirability of a diverse and balanced mix of energy resources. We are blessed not primarily with the physical or geological sufficiency of our Nation's resources, but with the talent and inventiveness of our people to make use of them in a very wide variety of ways. No single method of producing or using energy has a monopoly on virtue or economical application. Each of them must be considered on its merits and used where appropriate.

I have had conversations with Secretary Hodel on my role within the Department. We primarily see my working in the following areas:

One, I will assist in representing the Department before Congress and the public, a traditional role for the Deputy Secretary.

Two, I will be involved in policy guidance within the Department based on consultation with and decision by the Secretary. In developing, reviewing, and implementing the policy positions of the administration and the Department, I will be aided by the experience I have had in the past 3 years in coordinating many of these policies with other agencies through the Cabinet Council process.

Three, I will participate in departmental management activities as assigned by the Secretary in areas where top level management attention is needed, but his own time is limited.

I would conclude by quoting Secretary Hodel's confirmation statement where he said that we need to forge a broadened energy consensus, "premised upon the belief that we do not have long-term insoluble problems; and that by working together—consumers and suppliers of energy, citizens whose concerns range from protection of the environment to the price of gasoline, as well as a Federal Government in concert with the marketplace—we can approach energy issues in a manner conducive to preserving or fostering our Nation's fundamental strengths. It is my intention to remain open and accessible to a broad spectrum of views," end of quote.

These are my views as well.

Mr. Chairman, this concludes my formal remarks. I have submitted detailed information on my qualifications, experience and financial affairs. I will be pleased to attempt to answer any questions you and the committee may have.

[The prepared statement of Mr. Boggs follows:]

STATEMENT OF DANNY J. BOGGS

BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

OCTOBER 17, 1983

Mr. Chairman, and Members of the Committee, I appreciate the opportunity to come before you as President Reagan's nominee for the position of Deputy Secretary of the Department of Energy.

I am a lawyer by profession, and most of my career has been in the field of law and public policy. After graduating from Harvard College and the University of Chicago Law School, I taught at that Law School for a year. I then entered the state government in my home state of Kentucky, where I served as Deputy Commissioner of the Department of Economic Security, Administrative Assistant and Legal Counsel to the Governor, and Aide to the Minority Leader of the State House of Representatives.

In 1973 I came to Washington and served for two years as Assistant to the Solicitor General of the United States, engaged in assisting with government litigation in the Supreme Court. In late 1975, I was chosen as Assistant to the Chairman of the Federal Power Commission, and my career has primarily been involved with energy issues since that time.

At the Federal Power Commission, I dealt with the entire range of natural gas and electric regulation issues within the purview of the Commission. From 1977 to 1979, I served on the staff of this Committee as Deputy Minority Counsel. I dealt primarily with those portions of the proposed National Energy Act dealing with the regulation of natural gas and electricity. During 1980, I was Of Counsel to the law firm of Bushnell, Gage, Reizen & Byington, and engaged in private law and consulting practice. During the transition period following President Reagan's election, I was the transition team leader for the Federal Energy Regulatory Commission.

Since the beginning of the Administration of President Reagan, I have served in the White House Policy Development Office with the current title of Assistant Director and Special Assistant to the President. I have been the Executive Secretary of the Cabinet Council on Natural Resources and Environment since its inception and of the Cabinet Council on Food and Agriculture since March of 1982.

The position to which the President has nominated me represents a new step for me into a line position in energy activities, rather than a staff position. I seek to serve in this job primarily to advance the energy policy which President Reagan has espoused during his term of office, and as set out in the National Energy Policy Plan documents that he has submitted to Congress. As this hearing is being held on the 1000th full day of President Reagan's Administration, I think it is appropriate to reiterate the President's recent statement that our energy situation has improved over that period. I look forward to working with the Congress and the other members of the Administration to continue this progress.

By way of philosophy in approaching this job, I would say hat I firmly believe that Congress makes the laws and the executive's task is to administer those laws even while urging their alteration, if that is deemed desirable. I believe in the President's approach to energy matters and to the economy. That approach, based on the free market and the ability of individual Americans to improve their situation, is based not on an unknowing faith, but on the evidence that has accumulated over this Administration, indeed over our history.

I appreciate and look forward to the opportunity of serving with Don Hodel as Secretary. I share his strongly stated policy that we must work toward stabilizing and making the best use of the professional staff of the Department of Energy. I also share his strong view on the desirability of a diverse and balanced mix of energy resources. We are blessed not primarily with the physical or geological sufficiency of our Nation's resources, but with the talent and inventiveness of our people to make use of them in a very wide varity of ways. No single method of producing or using energy has a monopoly on virtue or economical application. Each of them must be considered on its merits and used where appropriate.

I have had a number of conversations with Secretary Hodel on my role within the Department. We primarily see my working in the following areas:

1. I will assist in representing the Department before Congress and the public, a traditional role for the Deputy Secretary.

2. I will be involved in policy guidance within the Department based on consultation with and decision by the Secretary. In developing, reviewing and implementing the policy positions of the Administration and the Department, I will be aided by the

experience I have had in the past three years in coordinating many of these policies with other agencies through the Cabinet Council process. I will also work in coordinating selected major policy analysis issues where the Department is an important participant in Administration-wide policy decisions.

3. I will participate in departmental management activities as assigned by the Secretary in areas where top level management attention is needed, but his own time to do so is limited.

I would conclude by quoting Secretary Hodel's confirmation statement where he said that we need to forge a broadened energy consensus "premised upon the belief that we do not have long-term insoluble problems; and that by working together -- consumers and suppliers of energy, citizens whose concerns range from protection of the environment to the price of gasoline, as well as a federal government in concert with the market place -- we can approach energy issues in a manner conducive to preserving or fostering our Nation's fundamental strengths.

It is my intention to remain open and accessible to a broad spectrum of views...."

These are my views as well.

Mr. Chairman, this concludes my formal remarks. I have submitted detailed information on my qualifications, experience and financial affairs. I will be pleased to attempt to answer any questions you and the Committee may have.

The CHAIRMAN. Thank you, Mr. Boggs.

Senator Domenici.

Senator DOMENICI. Mr. Chairman, I don't have very many questions, just a couple of minutes. I appreciate you yielding to me. It is interesting, however, Mr. Chairman, to note as I understand it today is the 10th anniversary of the oil embargo. That, in a very real sense, is why they are here. We didn't have a DOE before that, and we didn't have a FERC before that. Both of them came out of that episode in our energy history past.

With reference to synthetic fuel, Mr. Boggs, you, prior to this assignment, served in a capacity within the White House regarding synthetic fuels. Could you describe that role just briefly?

Mr. BOGGS. Senator, as Executive Secretary of the Cabinet Council on Natural Resources and Environment, I am responsible in an overall way for the preparation and scheduling of all of the issues that come before the Cabinet Council. In general, the option papers or papers for Cabinet Council consideration go out over my signature as Executive Secretary, although they are worked over by working groups of the Cabinet Council.

With regard to administration policy on synthetic fuels, there have been a number of Cabinet Council meetings on this subject going back, I believe, into 1981 when the original Presidential decision was made to go forward with the three synthetic fuel plants, the Union Oil, Great Plains, and Tosco. Subsequent to that there have been additional Cabinet Council meetings on the subject on whether there should be changes or additions to the administration policy on synthetic fuels. My role in those discussions was essentially to see that all points of view were fairly represented, and that the options people wish to present were presented in the papers.

Senator DOMENICI. Your new role, if confirmed, would involve you as part of the DOE apparatus with reference to the management of the Great Plains financial arrangement; is that not correct?

Mr. BOGGS. The Department currently does have the management of that project, and to the extent the Secretary asks me to be involved, I certainly would be.

Senator DOMENICI. I assume, with reference to that role, that you would be objective following the mandate of the law, using that Department in whatever way the management mandates proceed without regard to your personal feelings about synthetic fuels on that project?

Mr. BOGGS. Well, sir, I certainly would do so. I believe very strongly that the Congress makes the laws. The administration's position, the executive branch's position is to enforce those laws until and unless they ask the Congress to change them, and until and unless they have been changed. The administration has made no initiative in that regard. So the role of the Department would be to enforce the law as it is now written.

Senator DOMENICI. Thank you, Mr. Chairman.

The CHAIRMAN. I might just follow up on that because I think it might be well to sketch just a little background for the record on that point.

As I recall, there was a review by the administration of the administration's position with respect to the Synthetic Fuels Corporation, and reaching back in my memory it seemed to me it was the latter part of April maybe that the Cabinet Council affirmed the administration's support for the activities of the Synthetic Fuels Corporation; is that correct?

Mr. BOGGS. Mr. Chairman, I would have to submit for the record any details on that, because I don't have my files on this point. But I could certainly do that. Basically the operation of the Cabinet Council is such that the President makes any decisions on issues coming before the Cabinet Council. As I said, the President has made no decision to alter the previous administration policy on synthetic fuels.

The CHAIRMAN. There was a discussion, however, that ended with Mr. Noble, the Chairman of that Board, at least expressing the opinion that he now has—maybe the word formal is not quite accurate—but at least the considered support of the Cabinet Council. And then there was, following that time after that became rather widely known, there was an attempt made within the Cabinet Council to again study the issue by what some call an attempt to have a blue ribbon commission restudy the issue, and that issue was dropped, as I understand it, at that time. The restudy did not go forward. Am I correct on that?

Mr. BOGGS. You are correct that there was no decision to make any change in the policy. As far as the exact dates and timing, I would be happy to submit that for the record.

[The informaion follows:]

THE WHITE HOUSE

WASHINGTON

October 30, 1983

Dear Senator McClure:

With regard to the questions asked at the hearing on October 17 regarding the timing of Cabinet Council action on matters involving synthetic fuels, I have ascertained that Cabinet Council meetings whose agenda included synthetic fuels were held in late January, early May, and mid-June of this year.

No action has been taken pursuant to these meetings.

Sincerely yours,

Danny J. Boggs

DANNY J. BOGGS

The Honorable
James McClure
Chairman
Senate Committee on Energy
and Natural Resources
Washington, D.C. 20510

The CHAIRMAN. I say that this morning because I know Senator Domenici is concerned with that, having been so intimately involved in writing that statute, and also because I think there was some hesitancy or a great deal of doubt around the country as to what this administration's opinion might be on the synthetic fuels program. I think that discussion was appropriately based, so people have been watching very carefully whatever it is that the administration may have done.

My purpose in making the remarks is to attempt to put that into prospective, and perhaps to lay to rest the rumors that have been flying over the last 2 or 3 years, particularly the last 6 months, and I might say, too, that it probably is compounded by the difficulty that the Synthetic Fuels Corporation has had in moving that program forward. There are a great many people who look at the somewhat lesser progress and assume the lack of more rapid progress is the basic desire on the part of some within the administration to slow or stop it.

I think the record might well reflect this point that the Synthetic Fuels Corporation is an independent agency not under the administration, but not unaffected by the attitudes of the administration, but that the slow progress which has been a matter of concern to myself as well as other members of this committee probably springs from other difficulties rather than any overt or covert attempt on the part of the administration to stop it.

Pete, would you agree that would be a little bit of the background for the reason for the concern within this committee?

Senator DOMENICI. I think that's correct, Mr. Chairman. I think the progress, or lack of it, is attributable to a tremendous changing of economics of energy in our country as much as anything, far different than any of us assumed when we formed it.

On the other hand, it seems some progress is being made and I think your summary is an accurate one, including the summary of statement of rumors and notions around, which, to some extent, were attributed to the nominee who is before us. I am satisfied myself, his statement before us on precisely what he did and how he feels and what he will do. For that reason I am not prepared to have any further discussions with him publicly on it. I am prepared to vote for his confirmation.

The CHAIRMAN. Thank you.

Senator Warner.

Senator WARNER. Thank you. When we talked in my office I mentioned to you my concern over the strategic petroleum reserve. I think it would be helpful if we put on the record this morning your approach to this issue.

Mr. BOGGS. Senator, I believe the strategic petroleum reserve is now, and can be in the future, a significant part of our Nation's energy preparedness system.

The size of the reserve, as you know, is now something over 360 million barrels, which is about equal to 3 months of our average net oil imports over the past year. Obviously, for the purpose of preparedness, more is always better than less. At the same time, within the context of the overall budget, the President has to make a decision as to how much funds can be allocated to it. The current rate of about 186,000 barrels a day for the next year is somewhat

more than the administration originally asked for. In my view it represents a sensible compromise. We intend to continue filling the reserve at a rate consistent with the budgetary priorities. We certainly will continue to fill it. I believe the current figure would run in the vicinity of 450 million barrels by the end of the coming fiscal year.

Senator WARNER. Supposing in this very serious situation in the Middle East between Iraq and Iran that the Iraqis did attack the island in such a way to seal off the Straits of Hormuz. Would you view that as an emergency whereby we should dip into that reserve in order not to have a sudden upshot in energy price this year occasioned by that shortage?

Mr. BOGGS. It certainly could be. I think the decision would have to depend on a whole host of factors that the President would consider including the apparent size of the disruption, the apparent length of time it was thought the disruption might continue, the energy situation at the time, the time of year and the economic situation. Certainly the strategic petroleum reserve is intended for use in a sufficiently serious emergency, and those are things the President would have to consider in making the ultimate decision on whether to use it.

Senator WARNER. Turning now to the subject of coal, there's been some diminution on the funding for the research and development of coal. What approach would you hope to take?

Mr. BOGGS. I can't speak with authoritative details of the budgetary matters. The general policy we try to pursue is to focus Federal funding on the basic and applied research necessary to provide new avenues, new energy sources, new means of using energy, and certainly coal as our premier fossil fuel in terms of reserves is an important part of that.

I would, in general, advise that we continue with those activities as part of our balance and mixed energy approach, that we should not discriminate against them in any way. We do have more reserves of energy in the form of coal than in our other fossil sources. We need to continue to make advances.

We do have a fossil fuel research program in the area of coal, and certainly we would want to continue that.

Senator WARNER. As we in the Nation try to move toward greater and greater energy independence, what would be your views as to the rate of momentum we can perceive?

Mr. BOGGS. Well, in discussing energy independence, Secretary Hodel has preferred to use the term "non-dependence" in the sense that whatever we were importing would not be a catastrophe to the economy if we lost that. Looking at independence on a numerical measure, in 1977 our energy imports were equal to about 23 percent of our consumption. In 1982 it was about 10 percent. So that's quite significant progress.

One of the things that has happened has been that our energy exports, especially in the field of coal, have increased certainly up through 1982, and to some extent have balanced off some of our energy imports. I think we've been making good progress. I'd like to see it continue.

Senator WARNER. What emphasis would you hope to see us place on continued research in the area of solar energy?

Mr. BOGGS. I think our policy across the board is to, as I said, focus on the area of basic and applied research. I believe we've seen the numbers that are in those areas have continued to increase in the solar area. There certainly are many promising scientific areas that are being pursued, and they need to be pursued across the board in line with what Secretary Hodel, and the President in the national energy policy plan have spoken of as a balanced mix of energy resources.

Senator WARNER. What about our momentum in the area of energy conservation?

Mr. BOGGS. That has been a very bright area today. The amount of energy that it takes to produce a given amount of goods and services is more than 20 percent less than it was in 1973, and in each of the last 3 years that measure of efficiency has grown by 3 or 4 percent each year. We think that that is primarily the result of citizens being freer to use energy in the most productive possible way, and we certainly encourage that.

Within the Federal budget we do have a conservation research program, both industrial and home insulation essentially with the same background, that the Government is not the primary agency for the commercialization of these technologies, but it is very intimately charged with activity in the basic and applied research area.

Senator WARNER. Last year Congress was able to find a couple hundred million dollars in the Department's budget for energy assistance programs. What approach would you have to that subject?

Mr. BOGGS. Our general policy approach has been that we feel that energy assistance should be continued, but that it should primarily be within the scope of the assistance programs managed by the Department of Health and Human Services. This policy has not heretofore been accepted by the Congress, and the appropriations have been made to the Department of Energy, and we will certainly do our best to see that the money is effectively gotten out to the intended recipients.

We continue to believe that it would be better managed within the context of the other assistance programs, but as long as it is in the Department, it will be done as efficiently as we know how.

Senator WARNER. Good. As I understand your response, you would continue to pledge your efforts toward this program?

Mr. BOGGS. Certainly.

Senator WARNER. I wish you luck. You have my support. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. Mr. Harvey, my understanding would be that there may be some members of the committee on either side who may wish to submit some questions for the record. It would be my understanding that they would be prepared to submit those questions by the close of business today; is that correct?

Mr. HARVEY. That's correct.

The CHAIRMAN. Without objection, it will be so ordered. The questions will be submitted in writing by the close of business today for response by you, Mr. Boggs, if possible, by the end of this week so we can conclude in the business session on the vote of confirmation early next week.

Mr. BOGGS. I appreciate that, Mr. Chairman. I will have the responses by that time.

The CHAIRMAN. I might note for the record, we do welcome the presence of your wife and daughter in the hearing this morning. I know this is a matter that affects their lives as well as yours. We are delighted to have you both here.

If there are no further questions at this time, you may be excused.

The next witness is Mr. O'Connor who has been nominated for position on the Federal Energy Regulator Commission. Upon his confirmation, he will be designated by the President to serve as Chairman of the Commission. As Chairman, Mr. O'Connor would have responsibilities extending beyond those of the other Commissioners. He would be responsible for general supervision of Commission personnel, as well as all other aspects of the Commission's administrative operations.

The Federal Energy Regulatory Commission, when combined with its predecessor, the Federal Power Commission, dates back to 1920 when the Federal Power Act was enacted. It is one of the oldest and one of the most important of our federal regulatory agencies. Although the Commission is placed within the Department of Energy pursuant to the Department of Energy Reorganization Act, the Commission retains its regulatory independence. It has very broad and highly complex regulatory responsibilities, including setting wholesale rates for natural gas and electric energy, assessing the environmental impacts of hydroelectric and other energy projects under its jurisdiction, and insuring the reliability of our Nation's electric energy supplies.

Since 1975 Mr. O'Connor has been executive vice president and director of Prudential-Bache Securities in New York. He was also a vice president of Citibank in New York from 1968 to 1975. In these positions, Mr. O'Connor has acquired extensive experience on the financial side of the electric and gas utility industries. He has developed detailed knowledge of utility operations as well as the management and regulation of utilities.

Mr. O'Connor, as you know, the rules of the committee which apply to all nominees require that they be sworn in connection with their testimony. Would you please rise and raise your right hand?

[Whereupon, Raymond J. O'Connor was duly sworn by the chairman.]

The CHAIRMAN. Please be seated. As you have observed already this morning, we ask certain questions of all nominees that come before this committee for confirmation, and I would like to ask these questions of you.

Will you be available to appear before this committee and other congressional committees to represent Commission positions and respond to issues of concern to the Congress?

Mr. O'CONNOR. I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required under our rules that this statement be made public unless the committee decides that special circumstances justifies an exception. Do you have any objection to the publication of your informational statement?

29-365 O - 84 - 2

Mr. O'CONNOR. I have no objection.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest, or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. O'CONNOR. Senator, I have, which I've disclosed, two oil and gas limited partnerships. I am prepared to divest myself of those. It is anticipated I will give them to a charity, and that will be accomplished prior to my taking office.

The CHAIRMAN. Aside from those, you know of no conflict or the appearance of a conflict?

Mr. O'CONNOR. I do not.

The CHAIRMAN. Are you involved in, or do you have any assets held in blind trusts?

Mr. O'CONNOR. I do not.

The CHAIRMAN. Mr. O'Connor, you may proceed with your statement in whatever manner you prefer at this point.

STATEMENT OF RAYMOND J. O'CONNOR, NOMINEE TO BE CHAIRMAN OF THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. O'CONNOR. In light of the fact that my background is somewhat unknown to many people, I'd like to discuss in some detail my background and experience. I would first like to express my appreciation to the chairman and members of the committee and the staff for the courtesies extended to me in the preparatory period for the confirmation proceedings. It is indeed an honor for me to appear before you this morning as the President's nominee for Chairman of the Federal Energy Regulatory Commission.

Since copies of my committee form and statement of qualifications have been made available prior to this meeting, I would just like to briefly highlight my experience and educational background at this time.

I am currently an executive vice president and member of the board of directors of Prudential-Bache Securities, Inc., specializing in public utility corporate finance and investment banking services to the electric utility and gas distribution companies. I am also on the board of directors of Money Mart Assets, Inc. and the Chancellor Tax-Managed Utility Fund Inc. From 1968 to September 1975 I was a vice president of Citibank, formerly First National City Bank of New York, in the energy systems department, a specialized unit providing commercial banking services to electric, gas distribution, and gas pipeline companies. Thus, over the past 15 years my responsibilities required intimate knowledge of the financial, operational, and managerial conditions of the electric and gas customers of Prudential-Bache and Citibank. In a specialized area like utilities, bankers must also be knowledgeable about the regulatory environment in which a company operates.

I worked also for two major utility companies. I joined Consolidated Edison Co. of New York, Inc. in 1959 as a staff attorney and in 1963 I was a staff assistant to the treasurer. From early 1965 to September 1968 I was employed by the Southern Co., a large electric utility holding company with operating subsidiaries in Ala-

bama, Georgia, Florida, and Mississippi, as an assistant to the vice president. My primary responsibilities included working on securities issues, banking relationships, and shareholder relationships.

I received my undergraduate degree from the University of Dayton, B.A., political science major, my law degree from St. John's University, and my master of law degree from New York University Graduate School of Law, which included courses in public utility regulation and securities regulation. I have also attended St. John's Graduate School of Business, taking courses in economics and finance. While at Citibank I completed a 6-week executive management course offered at Columbia University Graduate School of Business, as well as bank-sponsored courses in management systems, accounting, and financial services.

I would like to talk briefly about my general regulatory philosophy and the Commission itself. The basic work of any regulatory commission is to analyze the options and the consequences of those options and making decisions which will be in the public interest. I intend to never lose sight of the extraordinarily broad responsibility of the FERC. It is not an overstatement to suggest decisions regarding regulated companies have not only immediate, but also long-term effects on a great many more people than just a single company, its management, its employees, and its investors. In the broadest sense imaginable, utility regulation has to be in the public interest. Jobs and standards of living are affected. Economic growth is affected and future generations are affected. These observations are not meant to puff the job or responsibilities out of perspective. They are notions to which I am extremely and personally sensitive. It is the breadth of regulatory effect that gives me pause.

How are these broad policy concepts translated into effective regulatory decisions? That is the task of the Chairman and Commissioners, as well as that of the FERC staff. I will pledge, if confirmed, to manage and use those resources as effectively as I know how in order to carry out the mandate of Congress in the public interest. Building confidence in the decisions of the FERC will be a primary goal. Maintenance of a stable regulatory environment, one in which consistent policy is developed and applied, clearly furthers the goal of increased confidence that Commission decisions are the product of thorough analysis, consistent and equitable application of known policy, based on evidentiary records which afford all interested parties the opportunity to present and rebut issues.

The FERC traces its origin to the former Federal Power Commission, which Congress established in 1920. Without going into the details of the responsibility of the FERC, which are well known to members of this committee, I'd like to talk briefly about the FERC itself.

The Commission's regulatory purview in the 4 major categories mentioned above, in general, covers so many different types of operations that about 95 specific regulatory processes are required. The average case in any category takes some 24 months between filing and approval; and 4 years is not an uncommon duration.

In my statement of qualifications I mentioned my participation in the President's private sector survey on cost control. The first and most important thing I learned about the FERC is that it is so

unbelievably complicated. It was observed that the Commission is headed in the right direction on expediting its complex tasks and we applauded its management information system as a valuable management control tool. A substantial portion of the study involved various suggestions related to expediting the very heavy caseload of the Commission through a combination of organizational restructuring, procedural reform, and clearer communication of policy guidance to the staff. While a few short months are inadequate to fully understand the complexities of the Commission—and I am certain it looks far different from the inside than the outside—I believe my involvement with the President's private sector survey afforded me a good opportunity to familiarize myself with the administration and some of the procedures of the Commission.

In conclusion, I would like to add that my present knowledge of many of the complex substantive issues confronting the Commission is limited. I have much to learn, but I bring to this position for which I have been nominated 23 years of business, financial, legal, and managerial experience; an honest and open mind; and a desire to properly discharge the responsibilities of the office. Thank you.

[The prepared statement of Mr. O'Connor follows:]

STATEMENT OF RAYMOND J. O'CONNOR, NOMINEE,
CHAIRMAN, FEDERAL ENERGY REGULATORY COMMISSION

I would like to express my appreciation to Chairman McClure, the members of the committee and the staff for the courtesies extended to me in the preparatory period for the confirmation proceedings. It is, indeed, an honor for me to appear before you this morning as the President's nominee for Chairman of the Federal Energy Regulatory Commission.

Since copies of my committee form and statement of qualifications have been made available prior to this hearing, I would like to briefly highlight my experience and educational background at this time.

I am currently an Executive Vice President and member of the Board of Directors of Prudential-Bache Securities, Inc., specializing in public utility corporate finance and investment banking services to the electric utility and gas distribution companies. I am also on the Board of Directors of Money Mart Assets, Inc. and the Chancellor Tax-Managed Utility Fund Inc. From 1968 to September, 1975 I was a Vice President of Citibank (formerly First National City Bank of New York) in the Energy Systems Department, a specialized unit providing commercial banking services to electric, gas distribution and gas pipeline companies. Thus, over the past fifteen years my responsibilities required intimate knowledge of the financial, operational and managerial conditions of the electric and gas customers of Prudential-Bache and Citibank. In a specialized area like utilities, bankers must also be knowledgeable about the regulatory environment in which a company operates.

I worked also for two major utility companies. I joined Consolidated Edison Company of New York, Inc. in 1959 as a staff attorney and in 1963 I was a Staff Assistant to the Treasurer. From early 1965 to September, 1968 I was employed by The Southern Company, a large electric utility holding company with operating subsidiaries in Alabama, Georgia, Florida and Mississippi, as an Assistant to the Vice President. My primary responsibilities included working on securities issues, banking relationships and shareholder relations.

I received my undergraduate degree from the University of Dayton (B.A., Political Science Major); my law degree from St. John's University (J.D.; member of the Law Review), and my Master of Law degree from New York University Graduate School of Law, which included courses in Public Utility Regulation and Securities Regulation. I have also attended St. John's Graduate School of Business, taking courses in Economics and Finance. While at Citibank I completed a six-weeks Executive Management course offered at Columbia University Graduate School of Business, as well as bank-sponsored courses in management systems, accounting and financial services.

I would like to talk briefly about my general regulatory philosophy and the Commission itself. The basic work of any regulatory commission is to analyze the options and the consequences of those options and making decisions which will be in the public interest. I intend to never lose sight of the extraordinarily broad responsibility of the F.E.R.C. It is not an overstatement to suggest decisions regarding regulated companies have not only immediate, but also long-term effects on a great many more people than just a single company, its management, its employees and its investors. In the broadest sense imaginable, utility regulation has to be in the public interest. Jobs and standards of living are affected. Economic growth is affected and future generations are affected. These observations are not meant to puff the job or responsibilities out of perspective. They are notions to which I am extremely and personally sensitive. It is the breadth of regulatory effect that gives me pause.

How are these broad policy concepts translated into effective regulatory decisions? That is the task of the Chairman and Commissioners, as well as that of the F.E.R.C. staff. I will pledge, if confirmed, to manage and use those resources as effectively as I know how in order to carry out the mandate of Congress in the public interest. Building confidence in the decisions of the F.E.R.C. will be a primary goal. Maintenance of a stable regulatory environment, one in which consistent policy is developed and applied, clearly furthers the goal of increased confidence that Commission decisions are the product of thorough analysis, consistent and equitable application of known policy, based on evidentiary records which afford all interested parties the opportunity to present and rebut issues.

The F.E.R.C. traces its origin to the former Federal Power Commission, which Congress established in 1920 to license and regulate hydro-electric power projects built and operated by private firms, states, municipalities, and other non-Federal entities. The Federal Power Act of 1935 expanded these duties to the regulation of interstate operations of electric utilities. The Natural Gas Act of 1938 gave the F.P.C. regulatory responsibilities over interstate natural gas pipelines.

The 1977 DOE Organization Act transferred to the F.E.R.C. most of the responsibilities of the F.P.C., as well as some functions from other agencies. Under the Act, the F.E.R.C. is responsible for regulating the production, transportation, and sale for resale of natural gas in interstate commerce; ensuring just and reasonable rates for wholesale sales and the interstate transmission of electric power; licensing and inspecting non-Federal hydroelectric power projects; approving rates for the five Federal Power Marketing Administrations; regulating interstate oil pipeline transporation rates; and setting the value of oil pipelines for ratemaking purposes.

Prior to passage of the Natural Gas Policy Act of 1978 producer sales were regulated under the Natural Gas Act. Under the N.G.A., rates were established by the Commission and were required to be "just and reasonable" -- generally enough to permit recovery of the costs of producing plus a reasonable return. The N.G.A. also required that certificates of public convenience and necessity be received authorizing jurisdictional sales, that rate schedules be filed with the Commission, that rate changes receive prior approval, and that authorization for abandonment of service be obtained.

In passing the Natural Gas Policy Act, Congress created a new legislative framework for the regulation of wellhead pricing. The N.G.P.A. mandated a change from utility-type regulation of a limited market to what is essentially incentive pricing of an entire national market. In place of cost-based rate regulation of interstate sales, the N.G.P.A. created a series of specific statutory maximum lawful prices applicable to most wellhead sales, whether in interstate or intrastate commerce.

The Commission's regulatory purview in the four major categories mentioned above, in general, covers so many different types of operations that about ninety-five specific regulatory processes are required. The average case in any category takes some twenty-four months between filing and approval; and four years is not an uncommon duration. In my Statement of Qualifications I mentioned my participation in the President's Private Sector Survey on Cost Control. The first and most important thing I learned about the F.E.R.C. is that is is so unbelievably complicated. It was observed that the Commission is headed in the right direction on expediting its complex tasks and we applauded its Management Information System as a valuable management control tool. A substantial portion of the study involved various suggestions related to expediting the very heavy caseload of the Commission through a combination of organizational restructuring, procedural reform, and clearer communication of policy guidance to the staff. While a few short months are inadequate to fully understand the complexities of the Commission (and I am certain it looks far different from the "inside" than the "outside"), I believe my involvement with the President's Private Sector Survey afforded me a good opportunity to familiarize myself with the administration and some of the procedures of the Commission.

In conclusion, I would like to add that my present knowledge of many of the complex substantive issues confronting the Commission is limited. I have much to learn, but I bring to this position for which I have been nominated twenty-three years of business, financial, legal and managerial experience; an honest and open mind; and a desire to properly discharge the responsibilites of the office.

Thank you.

The CHAIRMAN. Thank you, Mr. O'Connor. I might observe in good humor that I think you are already putting a little distance between yourself and the recommendation of the Commission; is that correct? You are giving yourself a little wiggle room in case you find out that it's a little difficult——

Mr. O'CONNOR. Mr. Chairman, this has been a totally new experience for me. The last 2 weeks have probably been the most unusual in my life. If that's reflected in this statement, then I've learned something already.

The CHAIRMAN. I think those people who serve on the Commission that look at functions of government are often very positive in their conclusions. It's very rare that they are then faced with the necessity of carrying it out. You are going to be given that rare opportunity. That may be one of the reasons the President selected you, because of the recommendation of the Commission and perhaps the hope of having served on that you'll bring to the Commission the determination to carry some of those recommendations into policy.

Mr. O'Connor, I will submit some questions for the record that are in a little more detail than perhaps are necessary for the purposes of this hearing for your response in writing. As I said earlier to Mr. Boggs, that we'll submit questions for the record at anytime prior to the close of business today for your response in writing to the committee by the end of this week so that we can move toward the next step in the process early next week.

Mr. O'CONNOR. I am prepared to do that.

The CHAIRMAN. I do have one question that I would like to ask for the record today, because it deals with both something that you touched on in your statement, a matter of very high concern to a number of people who have had reason to contact me with respect to it.

We are involved now in a nationwide search for economic and environmentally acceptable sources of energy, and we're reviewing a number of variances that were looked at before, but are looked at differently both because of the changes of circumstance within the market and changes of circumstance due to changes in law that affect their economic availability and viability as projects. Some of those are small hydro projects.

Because of their nature and because of the nature of the law, there are a great many of those. There are a great many applications pending, both because of their size adversity, and perhaps also because of the number. Perhaps that is the most important part. The Commission has a lot of applications that have been before it for a long time, and I don't have an answer for them when they, and particularly many from the Pacific Northwest, complain that the internal policy and attitude of FERC during the last 8 or 9 months with respect to these projects seems to be unresponsive. They feel that they're bogged down in endless technical and unduely restrictive, or maybe I should say the legal end of environmental staff has been looking at it with such meticulous concern that it's impossible to ever make a decision beyond that. They are unable to find out what's going on. They make continuous inquiries over weeks and weeks and months and months and can't find out what's happening inside FERC.

Do you have any idea as to the scope of that problem?

Mr. O'CONNOR. Based on the work we did on the President's private sector survey I am aware of the magnitude, the great magnitude, of the pending applications.

My recollection is that preliminary permit applications have gone up something like several hundred percent over the last few years. So there's no question that there is a large number of applications pending.

Looking at the processing of them, I think some of the suggestions and ideas that were talked about in the President's private sector survey certainly need to be explored. As I said in my statement, I'm sure it looks a lot different on the inside than it does on the outside. At the same time, we did look into, and with some thoroughness, the management information system, the computer systems, which the agency has been developing over the last several years. We concluded the system was basically a foundation which could be built upon in order to expedite the process more efficiently, not only on rate cases, but also applications in the hydro area.

At the same time we made certain suggestions which would require congressional action relative to the criteria of regulation, namely a bill that you are familiar with, to increase the exemption of small projects from 5 megawatts to 15 megawatts, and we suggested there could be some significant savings on the impact of the hydro development.

I think relative to your comment about applicants can't find out what's going on over there, I think that was true last summer while we were here trying to come up with some ideas. Comments were made to me that somebody could not find their particular status of the application, the timing. I think that goes again back to what I consider and we consider the foundation which has been laid relative to the management systems.

We mildly criticize the application of the system insofar as not being sufficiently inputted on the milestones in order to track timing as well as looking at where the responsible parties may be within the organization, the accountability to be able to input into the system and find out exactly where certain applications might lie at any one particular point and time. So I think there is a real opportunity from the management point of view to improve that situation, and I would hope if confirmed we would be certainly looking at that whole problem.

The CHAIRMAN. I appreciate your response. I don't know where in the regulatory process it's appropriate for people who are interested in the processes to have informational availability, but at least they ought to know at what stage it is, and they really ought to be able to find out whether or not anybody inside the agency even knows whether there's an application, and, if so, where it is.

Mr. O'CONNOR. That goes to the comment on accountability. I believe that the management system, the management information system, has the capability of providing that, and that goes directly to the accountability of the professional staff people who are involved in that system.

The CHAIRMAN. Thank you very much. I note we'll have the opportunity to discuss that further, but I hope in a matter of weeks

or months from now we can see some substantial improvement in that problem, and it is a problem. I recognize that you can't always tell everybody exactly what they want to know about what's happening, because many of those questions are not simply procedural, they are substantive.

At the same time, people who have a great deal of interest, and many times for them at least a great many dollars involved. They are not large projects, but many of these project sponsors are people of limited financial capacity, and there's a very great commitment from their standpoint—often times all they've got—and when it's tied up for weeks and weeks and months and months, growing into months of delay and they can't find out either where it is or what's holding it up, whether it's simply administrative, procedural, or whether it's a matter of substance, then they have a justifiable concern. I hope that matter can be improved.

Mr. O'CONNOR. I'll pledge to you if confirmed, Senator, that that will be a priority.

The CHAIRMAN. Thank you very much.

Senator Domenici.

Senator DOMENICI. Mr. Chairman, I have no questions. I want the record to reflect that I've had an opportunity to speak with the nominee at length. I'm satisfied while he lacks experience in the field, he is committed to maintaining as modern and capable regulatory system as this country can put together, and that he is committed to fairness and interpretation of law is consistent as they can determine stemming from the records, and the indications of intent in the law that they will be administering.

I also am convinced that he's aware this may be a difficult winter and may be called upon to do some rather difficult things as a result of it, and that he understands the consequences of actions in that regard. I appreciate your arranging the meeting as expeditiously as you have, and hope that you are successful in getting these nominees confirmed quickly. Thank you.

The CHAIRMAN. Thank you. I appreciate, Senator, that you mentioned earlier the accident of timing. The fact that we have two nominees in the field of energy coming before us almost precisely 10 years after the 1973 events that precipitated our Nation's somewhat belated concern about energy.

I mention that because memories are short and the attention span of the American public stimulated by the attention given to various topics, by the media and other events that seem much more pressing or current or exciting at the moment has waned from time to time and moved away from the field of energy.

I remain convinced, as I know that you do, that energy policy is extremely important to this country. I believe, as I know you believe, Senator, that many of the economic problems that this country has experienced in the last 2 or 3 years came about as a result of the massive shift of wealth because of the pricing of energy brought about by political events in the Middle East, narrowing to some degree other political judgments made in this country and in the industrialized world.

We do still have a severe challenge, as Senator Warner mentioned, the problem that would come to this country if indeed a

Middle Eastern war spread in such a manner that it interdicted supplies of oil flowing through the Straits of Hormuz.

I think it's worth taking just a moment to reflect that other events in the world have shifted our attention away from that possibility. A year ago last April I was aboard the U.S.S. *Midway* in the Gulf of Oma. Because of events in Central America and then in Lebanon, U.S. Naval forces have been redeployed and the world may well take from that redeployment a wanning of interest on the part of the United States in what happens there. I think they would misread those actions very badly if they were to misread the underlying and fundamental concern that the U.S. Government has with what would happen with an interruption in oil supplies.

While Mr. Boggs is correct in what he said earlier at this confirmation hearing, that our dependence upon imported oil has declined, in absolute terms the volumes have declined as well as percentages have declined. The dependence of Europe and Japan is still great enough to impel major responses to major interruptions. That's by way of saying events could very easily trigger a great power confrontation that would look to many like the beginnings of world war III. I don't hit the panic button. I only state that because I want people to understand the seriousness of the situation that we have, and, therefore, the seriousness of energy policies, because they are not unrelated to the security of this country and the future and the lives of our citizens. That isn't FERC's responsibility solely, but certainly Federal Energy Regulatory Commission has within its areas of responsibility those things which bear upon the security of this country, and whether or not we would be able to forge policies and give signals to the rest of the world that are appropriate to the seriousness of this issue, and how seriously we regard it.

I'm grateful to you, Senator Domenici, for having mentioned the time between that event and what we are doing here today.

Are there any further comments or questions at this time? If not, I'll thank you very much for your appearance here this morning. I'll look forward to your responses Friday. The hearing is adjourned.

[Whereupon, at 11 a.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Informational Statements of Danny J. Boggs and Raymond J. O'Connor

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: BOGGS (LAST) DANNY (FIRST) JULIAN (OTHER)

Position to which nominated: DEPUTY SECRETARY OF ENERGY Date of nomination: 9/9/83

Date of birth: 23 (DAY) Oct. (MONTH) 1944 (YEAR) Place of birth: Havana, Cuba

Marital status: Married Full name of spouse: Judith Susan (Solow) Boggs

Name and ages of children: Rebecca (9) David (6) Jonathan (3)

Education:

Institution	Dates attended	Degrees received	Dates of degrees
College High School	1957-61		
Harvard College	1961-65	AB	1965 (June)
U.Chicago Law School	1965-68	JD	1968 (June)

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1981-Present -- Special Assistant to the President & Assistant Director, Ofc. of Policy Development, White House
1/80 - 1/81 -- Of Counsel, Bushnell, Gage, Reizen & Byington, 1111 19th St., D.C. (Legal and Consulting)
3/79-11/79 -- Nunn for Gov. Campaign, 3901 Atkinson Dr., Louisville,KY, Deputy Campaign Director
7/77-3/79 -- Senate Energy Cmte., 3206 Dirksen SOB, D.C. Deputy Minority Counsel
12/75-7/77 -- Federal Power Comm., 825 N. Capitol St.,D.C. Assistant to the Chairman
4/75-12/75 -- Self-employed, Bowling Green, KY, Priv.Law
6/73-3/75 -- DOJ, Ofc. of the Solicitor General, D.C. Supreme Court Law
3/73-6/73 -- DOC, D.C., Legal & Administrative work
12/72-3/73 -- Self-employed, Frankfort, KY, Law & Consultng
5/72-12/72 -- Republican KY Campaign, Lexington, KY, Legal
SEE CONTINUATION

1

Employment record—Continued

1/72-4/72 -- State of KY Legislative Research Comm, Frankfort, KY, Legislative Drafting
11/70-12/71 -- State of KY, Frankfort, KY, Legal Counsel & Administrative Assistant to Gov. Nunn
6/69-11/70 -- State of KY, Deputy Commissioner, Dept. of Economic Security, Frankfort, KY, Legislative/Legal

Military service: Enter all military service if not included above: service, dates, rank, type of discharge.

NONE

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

National Merit Scholarship (1961)
Harvard National Scholarship (1961-65)
Mechem Scholarship, U.of Chicago Law School (1965-68)
Harvard AB Degree, Cum Laude (1965)
Member Order of the Coif, U.of Chicago Law School (1968)
Bigelow Teaching Fellowship, U.of Chicago Law Sch. (68-69)
Phi Delta Phi Legal Fraternity
Outstanding Performance Award, Commerce (1973)

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Beta Club	Parliamentarian	1958-61
Harvard-Radcliffe Intl. Relations Council	President	1961-65
Harvard Outing Club		1961-65
Unv. of Chicago Student Government	Exec. Committee	1965-67
Harvard World Cultural	Soc. Treasurer	1962-65
National Student Asoc.	Congress Steering Cmte. Natl. Suvp. Board	1962-69

SEE CONTINUATION SHEET

CONTINUATION OF MEMBERSHIPS (Page 2)

Philadelphia Society, Trustee and Second Vice President (1965-PRESENT)

YMCA, Frankfort, KY (1972-74)

College High Debate Club, President (1957-61)

Mont Pelerin Society (1971-PRESENT)

Washington, D.C. Roadrunner's Club (1973-PRESENT)

Harvard Debate Club (1962-65)

American Bar Association (1969-PRESENT)

Kentucky Bar Association (1969-PRESENT)

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

Analysis of 1964 Election (The Harvard Conservative, January 1965)

Columns in Newsday, 1970

Op-Ed Piece, (New York Times, May 1, 1982) "Reagan Energy Policy"

"The Energy Picture: A Mid-Term Assessment" (San Angelo Standard Times, October 1982)

Considerations in "Predict Your Time" Races (D.C. Road-runners Newsletter, 1975)

Qualifications: State fully your qualifications to serve in the position to which you have been named.
(attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

As my present employer is the Executive Office of the President, I expect to continue connections, as appropriate, with the President and his subordinate officials.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

NO

3. Has anybody made you a commitment to a job after you leave government?

NO

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

NO

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

NONE

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None to my knowledge. I have sold the Hydro-Quebec bond held in a custodian account for my child.

29-365 O - 84 - 3

STATEMENT OF QUALIFICATIONS

My qualifications for the job of Deputy Secretary of Energy include the following:

1. A broad general background in law and public policy. I have a law degree, have studied economics and regulation, and participated broadly in public debate and discourse. In 2 years as Assistant to the Solicitor General of the United States, I participated broadly in Supreme Court litigation, providing a good background for relationship to the myriad of laws that Department of Energy must administer and enforce;

2. Over the past 7 1/2 years, I have held a number of positions directly related to major aspects of the Energy situation, including as Assistant to the Chairman of the Federal Power commission, Deputy Minority Counsel for the Senate Energy and Natural Resources committee, transition team leader for the Federal Energy Regulatory Commission for the 1980 transition effort for President Reagan, and for the past 2 1/2 years, Assistant Director of the White House Office of Policy Development, responsible for energy and other areas;

3. In this latter role, I have been specifically responsible for assisting in the policy consideration of many of the major energy issues being dealt with by this Administration, and for general familiarity with the broadest possible range of considerations in the energy area. This has included occasional public speaking and more extensive private articulation of Administration policy and general considerations in the energy field.

4. In my White House position, I worked with the major persons involved in the formulation of energy policy within the Administration, in Congress, and in the private and public interest sectors concerned with energy.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

NONE

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

As a lawyer with the firm of Bushnell, Gage, Reizen & Byington, on behalf of Consumer Solar Electric Power Corp., I worked for inclusion of provisions in the Energy Security Act, which would enable that Company to compete for synthetic fuels grants; as a lawyer with the firm of Bushnell, Gage, Reizen & Byington, on behalf of Cellulose Mfg. Asoc., sought the inclusion of appropriations bill or report language to allow fairer testing of that Association's insulation products by government agencies.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

No conflict of interest expected (see attached letter).

6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them.

See attached letter.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

NONE

3. Are any assets pledged? (Add schedule.)

Credit Union loan of $700 against Credit Union account; mortgages on Bowling Green home as shown on financial disclosure form; mortgage from Bank of Virginia of $100,000-250,000 on house now occupied at 3% above 90-day T-bills.

4. Are you currently a party to any legal action?

NO

5. Have you ever declared bankruptcy?

NO

6. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

YES

7. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

NO

AFFIDAVIT

DISTRICT OF) ss
COLUMBIA , being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Darrell J. Rogers

Subscribe and sworn before me this 20th day of Sept ,19 83

Albert E. Brown
Notary Public

My commission expires:
May 31, 1988

JUN 13 1983

David Scott,
Acting Director
Office of Government Ethics
Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415

Dear Mr. Scott:

This letter transmits to you, in accordance with 5 C.F.R. §734.604(c)(2)(iii), a copy of the Standard Form 278, "Financial Disclosure Report," submitted by Danny J. Boggs incident to his proposed nomination as Deputy Secretary of Energy.

Section 606(a) of the Department of Energy Organization Act prohibits a supervisory employee of the Department, for a period of one year after terminating employment with any energy concern, from knowingly participating in any Department proceeding involving that energy concern (other than a general rulemaking). Since it has been more than one year since Mr. Boggs has been employed by any energy concern, this restriction will not apply to his service in the Department.

However, section 606(b) of the Act prohibits a supervisory employee, for a period of one year after commencing service in the Department, from knowingly participating in any Department proceeding for which he had direct responsibility, or in which he participated substantially or personally, while employed by any energy concern within the previous five years. Mr. Boggs will be given guidance to enable him to comply with this restriction insofar as it might relate to legal services he provided for Consumers Solar Electric Power. In that regard, we are not, aware of any current Department proceeding from which section 606(b) would require Mr. Boggs' recusal.

Mr. Boggs will also be given general advice concerning the prohibitions of section 208, title 18, United States Code, as they might relate to the financial interest of his dependent child in Hydro Quebec.

Except for the matters described above, I encountered no problems in reaching the conclusions upon which my certification on Mr. Boggs' report is based.

Sincerely,

Original signed by:
Ralph D. Goldenberg

Ralph D. Goldenberg
Assistant General Counsel
for Standards of Conduct

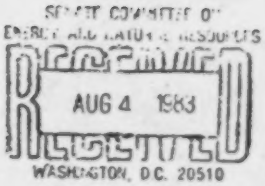
Enclosure

United States of America
Office of
Government Ethics

Office of Personnel Management
Washington, D.C. 20415

Official Committee File

AUG 2 1983



Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Danny J. Boggs, who has been nominated by President Reagan for the position of Deputy Secretary, Department of Energy.

We have reviewed the report and have also obtained advice from the Department of Energy concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Boggs is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure:

FINANCIAL DISCLOSURE REPORT

JV

Form Approved
OMB No. 3209-0001

Reporting Status (Check Appropriate Box)			NOTE
☐ Incumbent	☒ New Entrant, Nominee, or Candidate	☐ Termination Report	All schedules must be filed. Enter "None" in areas or across schedules where appropriate.

Agency Use Only	OGE Use Only
Date of Filing (Month, Day, Year)	
JUN 08 1983	13 ...3

	Last Name	First Name and Middle Initial	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
Reporting Individual's Name	BOGGS	DANNY J.		
Position for Which Filing	Title of Position: Deputy Secretary	Department or Agency (If Applicable): Department of Energy		
Location of Present Office	Address (Number, Street, City, State and Zip Code): Office of Policy Development, White House		Room Number: Rm. 227, OEOB	Telephone No. (Include Area Code): 202-456-6252

Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination	Do You Intend to Create a Qualified Diversified Trust?
	Energy and Natural Resources Committee	☐ Yes ☒ No

Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held
	Assistant Director, Office of Policy Development, AND Special Assistant to the President for Energy, Environment, Agriculture and Natural Resources, THE WHITE HOUSE

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief	Danny J. Boggs	May 23, 1983

Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official/Reviewing Official	Date (Month, Day, Year)
The information contained in this report discloses no conflict of interest under applicable laws and regulations	Roger D. Golenberg	6/10/83
Office of Government Ethics Use Only	Signature: David H. Martin	Date (Month, Day, Year): July 7, 1983

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

Mr. Boggs will be given guidance to enable him to comply with the restrictions set forth in §606(b) of the DoE Organization Act (Pub. L. 95-91) insofar as it might relate to legal services be provided for Consumers Solar Electric Power. He will also be given 18 USC. 208 guidance re listed interest in Hydro Quebec. RJG 6/10/83

(Check box if comments are continued on the reverse side) ☐

NSN 7540-01-070-5442

37

INCOME AND INTEREST IN PROPERTY

This schedule is applicable in the case of all reporting individuals

Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?	Yes	No
		X
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? ... or "qualified" trust?		

Are there any interests in property, transfers, trusts, or undertakings, or liabilities of a spouse or dependent child which you have not reported?	Yes	No
		X

If "Yes," did you certify to all of the following?
1. They represent solely your spouse's or dependent child's financial interest or responsibility;
2. They are not, in any way, past or present, derived from your income, assets, or activities;
3. You neither derive, nor expect to derive, any financial or economic benefit from them; and
4. You do not have knowledge as to the composition of such interest or liabilities.

	Yes	No

Page Number	2	Schedule A

Reporting Individual's Name: BOGGS, DANNY J.

Agency Use Only

Date of Filing (Month, Day, Year): JUN 08 1983

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income (✓) Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Income: Category of Amount or Value (✓) None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $100,000	Actual Amount	Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Interests in Property: Valuation of Assets (✓) Valuation Unknown	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	Over $500,000
S	Salary, Dept. of HHS																									
	Home rented at 357 Marylan, Bowling Green, KY		X								X									D-1008				X		
DC	Account, Fidelity Daily, Income Shares			X						X										E	X					
DC	Account, Fidelity Daily, Income Shares			X						X										E	X					
DC	Account, Fidelity Daily, Income Shares			X					X											E	X					
DC	Bonds, Southern New England Bell Telephone			X						X										E		X				
DC	Bonds, Hydro Quebec			X						X										E		X				
	Money Market Fund, Paine Webber			X						X										H		X				
	IRA Account First & Merchants Natl. Bank	CD's		X						X										H		X				
	IRA Account Security Bank	01/4/83		X						X										H	X					
	Checking Account Bank of Virginia			X						X										H	X					

88

SF 278 - Financial Disclosure Report
(Rev. 6/81)

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Page Number 3 | Schedule B

Reporting Individual's Name
BOGGS, DANNY J.

Agency Use Only

Date of Filing (Month, Day, Year)
JUN 08 1983

Report Applicable Transactions, Even If Also Reported on Schedule A

S or DC	Identification of Property (real and personal)	Type of Transaction			Date (Month, Day, Year)		Category of Amount or Value (✓)					
		Purchase	Sale	Exchange	Purchase	Sale or Exchange	$1,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	N/A											

(Rev. 6-81)

GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number 4	Schedule C
Reporting Individual's Name: BOGGS, DANNY J.	
Agency Use Only	
Date of Filing (Month, Day, Year): JUN 08 1983	

I. Lodging, Transportation, Food and Entertainment—*List each source totaling $250 or more in value*

S or DC	Source (Name and Address)	Brief Description	Value
	N/A		

II—All Other Gifts—*List each source totaling $100 or more in value*

S or DC	Source (Name and Address)	Brief Description	Value
	N/A		

III. Reimbursements—*List each source totaling $250 or more in value*

S	Source (Name and Address)	Brief Description	Value
	N/A		

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name	Agency Use Only (Date of Filing Month, Day, Year)	Page Number		Schedule
BOGGS, DANNY J.	JUN 08 1983	5		D

LIABILITIES

S or DC	Name and Address of Creditor	Type of Liability (e.g., promissory note, margin account) Give date, interest rate and, if applicable, term	Category of Amount or Value (✓) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	Fidelity Federal Savings & Loan Bowling Green, KY	1975, 9%, 30-year mortgage.		x			
	American National Bank & Trust Bowling Green, KY	1982, 13 1/2%, 3-year mortgage		x			
	Chase Manhattan Bank New York and Wilmington, Delaware	1981, 18%, personal loan 1982, 19 1/2%, personal loan } In late 82 briefly aggregated to over $10,000 (both now paid off - RBJ 6/9/83)		x			

POSITIONS HELD

Name and Address of Organization	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
NONE RBJ 6/9/83				

COMPENSATION IN EXCESS OF $5,000 PAID BY ONE SOURCE

This section is applicable only in the case of nominees and new entrants.

Source (Name and Address)	Brief Description of Duties
Bushnell, Gage, Reizen & Byington 1111 19th Street, N.W., Suite 301 Washington, D.C. 20036	Payment during 1981 for work done in 1980. Legal services relating primarily to two clients: Cellulose Manufacturers Assoc. and Consumers Solar Electric Power. RBJ 6/9/83

RELATIONS WITH OTHER EMPLOYERS

Description of Terms of Any Agreement or Arrangement	Parties	Date (Mo., Day, Yr.)
NONE RBJ 6/9/83		

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: O'Connor (LAST) Raymond (FIRST) J. (OTHER)

Position to which nominated: Chairman, FERC Date of nomination: 10-3-83

Date of birth: 16 (DAY) 9 (MONTH) 32 (YEAR) Place of birth: Valley Stream, New York

Marital status: Married Full name of spouse: Patricia Mary (Sullivan)O'Connor

Name and ages of children: Patricia,22; Thomas, 11; Raymond, 21; Maureen, 17

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Dayton	1950-54	BA	1954
St. Johns U. Law School	1956-59	JD	1959
N.Y.U. Grad. Law School	1962-68	LLM	1968
St. Johns U. Grad. Bus.	1964-66	N/A	N/A
Columbia U. Grad. Bus. Executive Mgt. Program	Aug/Sept 1972	N/A	N/A

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Prudential Bache Securities Inc. Executive V.P. and Director, 100 Gold St. N.Y., N.Y. Investment Banking--1975 to present.

Citibank,N.A.,--Vice President--399 Park Ave. N.Y., N.Y. Commerical Banking--Energy Systems Dept., 1968-75

The Southern Company--Assistant to V.P., One Wall Street, N.Y., N.Y.

Consolidated Edison Company of N.Y., Inc.

Employment record—Continued

4 Irving Place, N.Y., N.Y.

Attorney--1960-63

Staff Assistant to Treasurer--1963-66

Military service: Enter all military service if not included above: service, dates, rank, type of discharge.

U.S. Army, Sept. 1954 to June, 1956

Honorable Discharge (Sp3--Clerk Typist)

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

St. Johns U. School of Law--Partial Scholarship (2years)

Phi Delta Phi Legal Fraternity--"Man of the Year" 1959

Who's Who in American Finance and Industry

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Money Mart Assets Inc.	Board of Director	1978 to present
Chancellor-Tax Managed	Board of Director	1981 to present
tility Fund		
Bond Club of N.Y., Inc.	N/A	1979 to present
Allied Member-NY Stock Ex.	N/A	1980 to present
St. John's Law Review	Assoc. Editor	1958-59
Student Bar Assoc.	President	1958-59
Phi-Delta-Phi Legal Frat.	Exchequer	1958-59

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

Reports I Participated In:

President's Private Sector Survey--
Energy Task Force

U.S. Department of Commerce--Land Remote
Sensing Satellite Advisory Committee

Federal Power Commission--National Gas Survey
Finance Committee

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes (Including Money Mart Assets Inc. and Chancellor Tax-Managed Utility Fund)

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made you a commitment to a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

N/A

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

Oklahoma Gas and Electric Co. (Common Stock);
C&K Petroleum Ltd Partnership Interest;
General Hydrocarbons Ltd. Partnership interest

29-365 O - 84 - 4

QUALIFICATIONS

SECTION 204 of the DOE Organization Act states:

"The Chairman and members of the Commission shall be individuals who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy."

The Joint Explanatory Statement of the Committee on Conference reveals that the Senate bill stated "that the Chairman and members...shall be, by background, training, and experience, specially qualified to assess fairly the interest and needs of producers, consumers, and users of energy." The House bill contained no comparable provision as to qualifications of the members of the F.E.R.C.

By adding "by demonstrated ability" the Conference Committee apparently thought it important for a commissioner to have a successful "track record" in energy related matters. I believe my background, training and experience clearly demonstrates competence, aptitude and knowledge in energy related matters as required by the statute.

I believe I am qualified to serve on the Commission for the following reasons:

1. From September 1968 to the present time I have been employed by two major financial institutions, each having specialized units providing financial services to utility and energy companies. At Citibank, the largest commercial bank in the United States, I was a senior lending officer to electric, gas distribution and gas pipeline companies. Since September, 1975, I have been a senior officer of Prudential-Bache Securities Inc. specializing in public utility corporate finance and investment banking services to electric utility and gas distribution companies. Commercial bankers primarily lend money to corporations and others, while investment bankers act primarily as financial intermediaries, assisting corporations in raising equity and debt money from institutional and individual investors. In each case, the bankers must be thoroughly familiar with the financial, operational and managerial conditions of the borrowers and issuers of the securities. In a specialized area like utilities, the bankers must also be knowledgeable about the regulatory environment in which the company operates. Over the past fifteen years, I have studied and analyzed the regulatory agencies of many states and I have met with dozens of commissioners on a regular basis. Such visits included all regions of the United States, including, for example, New York, Massachusetts, Pennsylvania, Maryland,

Ohio, Illinois, Michigan, Kansas, Kentucky, Missouri, Texas, Oklahoma, Montana, California, North Carolina and Florida. I believe, therefore, I am sensitive to the concerns of the state commissions and the end users at the state level.

2. From 1957 to 1968 I worked as an attorney and junior officer for two major utility companies. My utility career began with a summer position as a legal clerk in the law department of Consolidated Edison Company of New York and, upon graduation from law school, as a full time attorney involved with trial and appellate practice, as well as contract, real estate and financial matters. I also was a Staff Assistant to the Treasurer of Con Edison, which is a combination electric and gas utility. My primary responsibilities included working on securities issues, banking relationships and shareholder relations. I also worked at The Southern Company for two and one-half years as an Assistant to the Vice President, with similar responsibilities. The Southern Company is one of the largest electric utility holding companies in the United States, with operating subsidiaries in Alabama, Georgia, Florida, and Mississippi. I believe this "background and experience", as required by Section 204 of the DOE Organization Act, qualifies me for membership on the Commission. Furthermore, such experience has made me aware and sensitive to the concerns and problems of operating utility companies and their rate-payers.

3. My formal education and training also qualifies me for membership on the F.E.R.C. I received a Bachelor of Arts Degree from the University of Dayton, with a Political Science major; a Juris Doctorate from St. John's University School of Law, where I was a member of the Law Review, President of the Student Bar Association and an Officer of Phi Delta Phi Legal Fraternity; a Masters of Law degree from New York University Graduate School of Law, with courses including Public Utility Regulation and Securities Regulation. I also attended St. John's University Graduate School of Business, taking Economics and Finance courses. While at Citibank, I completed a six weeks Executive Management course offered at Columbia Univiersity Graduate School of Business, as well as bank-sponsored courses in management systems, accounting and financial services.

4. In June, 1982 I was asked to participate as a member of the Energy Task Force of the President's Private Sector Survey on Cost Control. Being directly involved in the F.E.R.C. study, I had the opportunity to appreciate the overwhelming and complex tasks under the jurisdiction of the Commission. A substantial portion of the study involved various suggestions related to expediting the very heavy caseload of the Commission through a combination of organizational restructuring, procedural reform, and clearer communication of policy guidance to the staff. While a few short months is inadequate to fully understand the complexities of the Commission (and I am certain

it looks far different from the "inside" than from the outside"), I believe my experience and involvement with the President's Private Sector Survey afforded me an exceptional opportunity to familiarize myself with the workings of the Commission, its senior staff and its organizational structure.

5. My final comment on qualifications relates to managerial competency, which is particularly relevant to the chairmanship of this extraordinarily complex agency.

Section 401(c) of the DOE Organization Act states:

> "The Chairman shall be responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to (1) the appointment and employment of hearing examiners in accordance with the provisions of title 5, United States Code, (2) the selection, appointment, and fixing of the compensation of such personnel as he deems necessary, including an executive director, (3) the supervision of personnel employed by or assigned to the Commission, except that each member of the Commission may select and supervise personnel for his personal staff, (4) the distribution of business among personnel and among administrative units of the Commission, and (5) the procurement of services of experts and consultants in accordance with section 3109 of title 5, United States Code. The Secretary shall provide to the Commission such support and facilities as the Commission determines it needs to carry out its functions."

I would like to be able to honestly contend that I am the exceptional person able to perform those exceptional tasks set forth by the Congress. Peter Drucker believes that the service institution--government, colleges, hospitals--will be the frontier for management for the rest of this century, because these institutions are often vast, but inefficient and so are the most difficult and challenging to manage. In the private sector, top-management work is work for a team, rather than for one person and I suspect it is likewise in the public sector. I believe my experience and training will help achieve the mission of the FERC with a "Team" of commissioners and senior staff managers.

In conclusion, I would like to comment on that portion of Section 204 which states: "...to assess fairly the needs and concerns of all interests affected by Federal energy policy." As a lawyer and business executive of good standing and sound reputation, I am aware and sensitive to the fact that my job as a commissioner will be to discharge the policies set forth by Congress in a fair and objective manner, after careful consideration of concerns raised by all parties.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

#2 Will be divested before taking office

6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them.

It is my intention to comply with all applicable conflict of interest laws and regulations and to follow the counsel of the FERC ethics attorney.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are any assets pledged? (Add schedule.)

Home Mortgage--Citibank, N.A., N.Y., N.Y

4. Are you currently a party to any legal action?

No

5. Have you ever declared bankruptcy?

No

6. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

7. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

AFFIDAVIT

) ss

I, RAYMOND J. O'CONNOR being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Raymond J. O'Connor

Subscribe and sworn before me this 5TH day of OCTOBER, 1983

W. John Hoffmeister
Notary Public

NOTARY PUBLIC
DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES JUNE 30, 1988

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

IN REPLY REFER TO:

October 4, 1983

Raymond J. O'Connor
Executive Vice President
Bache, Halsey, Stuart,
Shields, Inc.
Bache Plaza
100 Gold Street
New York, New York 10292

Dear Mr. O'Connor:

This letter serves as the statement from the Designated Agency Ethics Counselor of this Commission required by question six (page five) of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources. I have reviewed your Standard Form 278 (Financial Disclosure Report), dated June 24, 1982, and have issued my opinion to David H. Martin, Director, Office of Government Ethics, that the Form does not disclose any conflicts of interest under the Department of Energy Organization Act (DOE Act), P. L. 95-91, the Commission's Standards of Conduct (18 C.F.R. §§3c.201-206) or the conflict of interest provisions generally applicable to Federal Government officials. My opinion was based on the understanding that you would, upon confirmation by the Senate, dispose of your interests in Oklahoma Gas & Electric, Towner Petroleum Limited Partnership, and General Hydrocarbons Limited Partnership, and relinquish your positions as an officer or director of Prudential-Bache Securities, Inc., MoneyMart Assets, Inc., and Chancellor Tax Managed Utility Fund.

Section 602(a) of the DOE Act prohibits supervisory employees from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any energy concern. The term "energy concern" is defined in Section 601(b) of the DOE Act to include any entity "significantly engaged in the business" of energy development, extraction, production, refining, transportation, distribution or sale, or significantly engaged in conducting research and development related to these activities, or in research, development or demonstration under a DOE-funded program. The term also includes any entity holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained.

Further, Section 208, Title 18, United States Code, and applicable Commission regulations, 18 C.F.R. §3c.204(b)(3), prohibit a government official from participating personally and substantially in any particular matter in which he, his spouse, minor child, partner, or organization in which he is serving as officer, director, trustee, partner, or employee, has a financial interest, or in which a prospective employer has a financial interest. This has been interpreted to prohibit participation in any particular matter whose effect on the relevant financial interest would be direct and predictable.

If I may be of further assistance, please let me know.

Sincerely,

Michael Schopf
Deputy General Counsel for
Legal and Administrative
Affairs

Enclosure

cc: Senate Committee on
Energy and Natural Resources

United States of America
Office of Government Ethics

Office of Personnel Management
Washington, D.C. 20415

OCT 5 1983

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Raymond J. O'Connor, who has been nominated by President Reagan for the position of Commissioner, Federal Energy Regulatory Commission.

We have reviewed the report and have also obtained advice from the Federal Energy Regulatory Commission concerning any possible conflict in light of the Commission's functions and the nominee's proposed duties. Based thereon, we believe that Mr. O'Connor is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

SF 278 Rev. 8/81
FPMR Amdt. 67
U.S. Office of Personnel Management

FINANCIAL DISCLOSURE REPORT

GD

Form Approved
OMB No. 3209-0001

Reporting Status (Check Appropriate Box)

☐ Incumbent ☒ New Entrant, Nominee, or Candidate ☐ Termination Report

NOTE
All schedules must be filed. Enter "None" in areas or across schedules where appropriate.

Agency Use Only	OGE Use Only
Date of Filing (Month, Day, Year) 9/15/83	

	Last Name	First Name and Middle Initial
Reporting Individual's Name	O'CONNOR	RAYMOND J.

	Title of Position	Department or Agency (If Applicable)	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
Position for Which Filing	Commissioner	Federal Energy Regulatory Commission		

	Address (Number, Street, City, State and Zip Code)	Room Number	Telephone No. (Include Area Code)
Location of Present Office	825 North Capitol		

	Name of Congressional Committee Considering Nomination	Do You Intend to Create a Qualified Diversified Trust?
Presidential Nominees Subject to Senate Confirmation	Energy Committee	☐ Yes ☒ No

	Title of Position(s) and Date(s) Held
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	None

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Raymond J. O'Connor	June 24, 1983

Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official/Reviewing Official	Date (Month, Day, Year)
The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Michael Sibloff	9/21/83
Office of Government Ethics Use Only	Signature	Date (Month, Day, Year)
	Frank H. Monheim	10/3/83

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

Mr. O'Connor has agreed, upon confirmation by the Senate, to dispose of Oklahoma Gas & Electric shares and his interests in the Towner Petroleum and General Hydrocarbons Partnerships, and to relinquish his positions as an officer or director of Prudential-Bache, MoneyMart Assets and Chancellor Tax Managed Utility Fund.

(Check box if comments are continued on the reverse side)

55

SF 278 Financial Disclosure Report
(Rev. 6-91)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of a [illegible] nominee.

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		X
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? [illegible] or "qualified" trust?		

	Yes	No
Are there any interests in property held [illegible] or liabilities of a spouse or dependent child [illegible] not reported?		X

If "Yes," [illegible] you apply to all of the following?
1. They [illegible] solely your [illegible] and [illegible] child's financial interest or responsibility.
2. They are not in any way [illegible] from your income, assets, or activities.
3. You have [illegible] that [illegible] economic benefit from them.
4. You [illegible] the [illegible] interests or liabilities.

Page Number	-2-	Schedule A

Reporting Individual's Name
O'CONNOR, RAYMOND J.

Agency Use Only

Identification	Type of Income					Amount	Interests in Property							
Spouse (S) or Dependent Child (DC)	Dividends	Rent	Interest	Capital Gains	Excepted Trust		Date (Mo., Day, Yr.)	Value	Type					
Prudential-Bache Securities Inc.						Compensation	'82 $89,110 '83 168,750							
MoneyMart Assets Inc. - Common	X					X		H	X					
Paine Webber - Common	X					X		H		X				
H & R Block - Common	X		X			X								
IBM - Common	X					X		H	X					
Illinois Power - Common	X					X								
Standard Oil Indiana - Common	X		X			X								
Oklahoma Gas & Electric - Common	X					X		H	X					
Burlington Industries - Common	S		X			X		H	# SOLD EFF. 7/15/83					
Hughes Tool Co. - Common			X			X								
TIE Communications - Common			X			X								
Hospital Corp. of America - Common			X			X								
Glaxo Holdings ADR's			X			X		H	# SOLD EFF. 7/13/83					
Chase Manhattan Bank - Call Options			X			X								

OF 278—Financial Disclosure Report
(Rev. 8/81)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals.

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		X
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust?		
or "qualified" trust?		

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		X
If "Yes," do you certify to all of the following?		
1. They represent solely your spouse's or dependent child's financial interest or responsibility;		
2. They are not, in any way, past or present, derived from your income, assets, or activities;		
3. You neither derive, nor expect to derive, any financial or economic benefit from them; and		
4. You do not have knowledge as to the composition of such interest or liabilities.		

Page Number -3- Schedule A

Reporting Individual's Name: O'CONNOR, RAYMOND J.

Agency Use Only

Date of Filing (Month, Day, Year)

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income (✓)							Income: Category of Amount or Value (✓)										Interests in Property: Valuation of Assets (✓)							
		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount / Only if "Other" Specified	Date (Mo., Day, Yr.) / Only if Honoraria	Valuation Method	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	
	Rolm Corp. - Call Options				X						X															
	E. F. Hutton - Call Options				X							X														
	McDonald Corp. - Call Options																									
	Chancellor Tax-Free Money Fund			X						X									H	X						
	N.Y. State Tax Anticipation Note			X							X								H				X			
	N.Y. State Tax Anticipation Note																									
	Citibank N.A. Savings A/Cs			X							X								H			X				
	Long Island Savings Bank - Savings A/C			X						X									H			X				
	Driftwood Apartments, Montauk, NY 1981 - $77,000	X										X							H	X						
	C&K Petroleum Ltd. Partnership, Houston, Texas							Partner									$7,000		C				X			
	Towner Petroleum Ltd. Partnership, Lorain,Ohio - 1981 - $20,000							Partner									$411.00		sold effective 8/15/83							
	General Hydrocarbons,Ltd.Partnership Billings,Montana- 1982- $20,000							Partner									$144.00		C			X				
	Glenbeigh Falcon Ltd.,Glenbeigh, County Kerry,Ireland-1982-$5,500							Share-holder									None		C		X					

SF 278—Financial Disclosure Report
(Rev. 6-91)

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Page Number		Schedule B
Reporting Individual's Name: Raymond J. O'Connor		
Agency Use Only		
Date of Filing (Month, Day, Year)		

Report Applicable Transactions, Even if Also Reported on Schedule A

S or DC	Identification of Property (real and personal)	Type of Transaction: Purchase	Sale	Exchange	Date (Month, Day, Year): Purchase	Sale or Exchange	Category of Amount or Value: $1,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	NOT APPLICABLE										

Financial Disclosure Report

GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number		Schedule C
Reporting Individual's Name: Raymond J. O'Connor		
Agency Use Only		
Date of Filing (Month, Day, Year)		

I. Lodging, Transportation, Food and Entertainment—*List each source totaling $250 or more in value*

Source (Name and Address)	Brief Description	Value
NOT APPLICABLE		

II—All Other Gifts—*List each source totaling $100 or more in value*

Source (Name and Address)	Brief Description	Value
NOT APPLICABLE		

III. Reimbursements—*List each source totaling $250 or more in value*

Source (Name and Address)	Brief Description	Value
NOT APPLICABLE		

Financial Disclosure Report
Exhibit A

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name	Agency Use Only	Page Number		Schedule
O'CONNOR RAYMOND J.	Date of Filing (Month Day Year)		-5-	D

LIABILITIES

S or DC	Name and Address of Creditor	Type of Liability (e.g., promissory note, margin account) Give date, interest rate and, if applicable, term	Category of Amount or Value				
			$10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	Prudential-Bache Securities Inc. 100 Gold St., New York, N.Y.	Margin Account-as of 5/31/83 - 10.00%		X			
	Citibank, N.A., 154th St., Whitestone, N.Y.	Revolving Credit - as of 5/31/83 -18.0%, Term 24 mos.	X				

POSITIONS HELD

Name and Address of Organization	Type of Organization	Position Held	From (Mo. Yr.)	To (Mo. Yr.)
Prudential-Bache Securities Inc.,100 Gold St.,N.Y.,N.Y.	Brokerage	Executive V.P. & Director	6/81	Present
MoneyMart Assets, Inc., 100 Gold St., N.Y., N.Y.	Mutual Fund	Vice President & Director	2/78	Present
Chancellor Tax Managed Utility Fund, 100 Gold St.,N.Y., N.Y.	Mutual Fund	Director	8/81	Present

COMPENSATION IN EXCESS OF $5,000 PAID BY ONE SOURCE

This section is applicable only in the case of nominees and new entrants.

Source (Name and Address)	Brief Description of Duties
Prudential-Bache Securities, Inc.	Investment Banking

RELATIONS WITH OTHER EMPLOYERS

Description of Terms of Any Agreement or Arrangement	Parties	Date (Mo., Day, Yr.)
None		

APPENDIXES

APPENDIX II

Responses to Additional Committee Questions From Danny J. Boggs and Raymond J. O'Connor

---

THE WHITE HOUSE

WASHINGTON

October 21, 1983

Dear Chairman McClure:

Enclosed are my answers to the written questions submitted following the hearing of October 17.

Sincerely yours,

Danny J. Boggs

DANNY J. BOGGS

The Honorable
James A. McClure
Chairman
Senate Committee on
Energy and Natural Resources
Washington, D.C. 20510

29-365 O - 84 - 5

POST-HEARING QUESTIONS AND ANSWERS

Relating to The

OCTOBER 17, 1983, CONFIRMATION HEARING

Of

DANNY J. BOGGS

NOMINEE FOR DEPUTY SECRETARY

U.S. DEPARTMENT OF ENERGY

Before The

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

1. QUESTION: Natural Gas. On January 12, 1983, you delivered a speech to the Conference Board in which you said, "Turning now to problems that we face for the future, the most obvious one is continued political interference, represented most fully in the natural gas area. But across the board, we must recognize the damage done by our legacy of interference, as well as our current laws." Could you elaborate on what you meant by that statement?

   ANSWER: The historic examples of government interference in the energy market place must be at least somewhat discouraging to citizens and companies attempting to take sensible steps to improve their energy situation. Examples would include investments in energy production whose value could be radically diminished by price controls; investments in greater stockpiles of energy resources, whose value could be wiped out by price controls or allocation rules; or conservation investments designed to make wise use of a particular energy resource which could be rendered unwise by a future government policy of actively discouraging the use of that resource. In each case, fear of future governmental action could lead to foregoing current opportunities to improve our energy situation.

2. QUESTION: Emergency Preparedness. I assume that you are familiar with the recently completed AST-4 test of the emergency oil allocation system of the International Energy Agency. As a result of that test, there have been a lot of questions raised about whether this Administration is really committed to the IEA Agreement. For example, if a free market voluntary approach did not result in our achieving our IEA obligations, do you think that the U.S. government should exercise its authorities for demand restraint and mandatory oil allocation to ensure that we meet our obligations in a disruption?

   ANSWER: As noted in testimony before this Committee on October 19 by Department of Energy and State, the United States is committed to carrying out its obligations under the International Energy Agreement. The Administration supports legislation to extend the anti-trust exemption necessary for fruitful participation in the IEA. Should market re-adjustment not meet that obligation, the President has ample additional authorities to do so, including the use of oil from the Strategic Petroleum Reserve, and if necessary, issuing specific orders to oil companies to provide supplies.

3. QUESTION: DOE Reorganization. What are your personal views on the need for reorganizing DOE and folding it into the Department of Commerce, as the Administration proposed?

ANSWER: I support the President's position that energy, while an important part of our economy, is still part of that economy, and can best be dealt with in concert with other aspects of our national policy. I fully supported the Administration proposal of 1982. That proposal has not been re-submitted, and no decision has been made concerning any future proposal.

4. QUESTION: Energy Conservation. After requesting a 95% cut in funding for Federal energy conservation programs, the Administration now gives energy conservation prominent space in its most recent National Energy Plan. So far, though, no new initiatives have appeared. Do you think that the DOE should develop some new program initiatives in energy conservation as a part of their new-found commitment to energy conservation?

ANSWER: I, and this Administration, have always believed that economically justified conservation was a vital part of America's improving energy situation. The 1981 National Energy Policy Plan said as much.

We have focused on permitting users to make the wisest choice among energy consumption and conservation options, and have made initiatives to reduce regulations in those areas. In the research and development area, we have maintained a substantial expenditure on basic and applied research.

I support the effort being led by Under Secretary Collins to identify additional cost-effective initiatives in the conservation area.

5. QUESTION: Strategic Petroleum Reserve. You say in your statement that, "I firmly believe that Congress makes the laws and the executive's task is to administer those laws even while urging their alteration." As you know, current law mandates a minimum fill rate of 220,000 barrels per day for the Strategic Petroleum Reserve, yet the Administration has made clear their intention to seek much lower fill rates beginning in the FY 1984 budget. And of course there was the impoundment of $800 million in SPR funds earlier this year. Are such actions consistent with the notion of the Executive Branch carrying out the laws of the United States?

ANSWER: In Fiscal Year 1983, the Strategic Petroleum Reserve (SPR) was filled at the rate of 226,000 barrels per day. The Energy Emergency Preparedness Act provides for an SPR fill rate subject to the availability of funds. The Administration's intentions regarding SPR fill rates for FY 1984 were announced in and consistent with the President's proposals to the Congress for appropriation legislation for that year. Both Houses of Congress have passed and sent to the President legislation setting a fiscal 1984 fill rate of 186,000 barrels per day and delaying construction of the Big Hill SPR site. I believe we are in full compliance with applicable laws at the present time and are acting in a manner fully consistent with our responsibilities to administer laws enacted by the Congress.

6. QUESTION: Emergency Preparedness. Mr. Boggs, do you believe that the Ayatollah Khomeini could stop tanker traffic through the Straits of Hormuz today, just by threatening oil tanker traffic so that the tankers' insurance coverage would be in jeopardy? If not, why not? What do you think would happen to the price of oil if that did occur, taking into consideration the fact that the bulk of world surplus oil production capacity would also have to move through the Straits of Hormuz? What do you think the U.S. government should do if the Ayatollah took such provocative action?

ANSWER: I do not believe that a mere threat would stop all tanker traffic through the Strait of Hormuz. The oil coming out of the Strait is sufficiently valuable that the increased risks represented by a simple threat would be accepted. However, should there be no tanker traffic through the Strait of Hormuz for a prolonged period, for whatever reason, the price of oil would rise.

The question of what action should be taken in the event of violation of international law leading to the cessation of tanker traffic would be one to be determined by the President under the circumstances existing at that time.

President Reagan, at a press conference on October 19, stated his firm determination that the free world could not allow anyone to close the Strait of Hormuz.

7. QUESTION: Synthetic Fuels. What future do you see for a synthetic fuels industry in the United States in the near future? Do you think that the U.S. government should help subsidize the creation of this industry as they subsidized the creation of the nuclear industry?

ANSWER: In the near future, it seems unlikely that the processes generally referred to as synthetic fuels (oil shale, coal gasification or liquefaction, tar sands, renewable resources made into alcohol or methanol, among others) will be competitive with conventional fuels, unless the price of conventional fuels rises very rapidly, which I do not expect, absent a major and prolonged oil supply disruption.

Previous Congresses and the previous Administration made the decision to provide a large specific appropriation for the purpose of assisting synthetic fuel production. In 1981, President Reagan approved federal assistance for three synthetic fuel projects under appropriations made to the Department of Energy. President Reagan has not taken any decision to attempt to alter those appropriations, and I support his decision.

8. QUESTION: Emergency Preparedness. You said the following in a speech to the Conference Board on Janury 12, 1983: "While some will always long for an imperial authoritarian solution, and feel that we need edicts given by a Caesar, a Napoleon, or a James Schlesinger to achieve a desirable outcome, those views have steadily faded. We have been through a series of arguments as to why the benign situation of the moment is only an illusion. We have been told wait until there's a cold winter, or wait until the small refiners close up, or the big marketers pull out. One by one these bogies have been disproved. The last one left now is the recession."

Do you still believe that the threat of an oil shortfall in the Middle East is a bogeyman?

ANSWER: The material cited refers to arguments made that improvement in our energy situation, and especially our oil situation, was impossible without massive government intervention. As the government ceased such intervention and the oil situation visibly improved, a series of erroneous reasons were given for that improvement, other than the ability of Americans to improve their situation through the market place. I would never deny, and did not in the cited material, that a sufficiently large reduction in the oil production from any part of the world would have an impact on prices throughout the world.

9. QUESTION: Emergency Preparedness. You also told the Conference Board, "The course of the last two years can be seen as a long rear-guard action by those who love to have an energy crisis around so that they can solve it, against the increasing evidence that the American people, working through the market system, can improve their situation without government dictation."

Could you be more specific as to who it is has perpetrated this rear-guard action? For example this committee has had a fair interest in the subject and in fact will hold hearings on emergency preparedness the day after tomorrow. Do you consider that part of the rear-guard action?

ANSWER: In the material quoted, I had primary reference to continued controls on natural gas, efforts at maintaining price and allocation controls, and efforts to prevent the use of America's energy production capability.

Concern for America's emergency preparedness is certainly legitimate, and the Administration has expended considerable attention in that effort. As has been stated in the past, there are certainly some types of emergency preparedness legislation which are useful, as expressed in testimony given at the hearing referred to.

10. QUESTION: Republican Platform. The 1980 Republican Platform said: "We believe it is necessary to resume rapid filling of strategic oil reserves to planned levels of 500 million barrels in the short-term and ultimately to the one billion barrel level, and to insure that non-contiguous areas of the United States have their fair share of emergency oil reserves stored within their respective boundaries, as authorized by the Energy Policy and Conservation Act of 1975."

Do you agree with the Republican Platform with regard to the Strategic Petroleum Reserve?

ANSWER: In concert with the platform statement quoted, this Administration more than doubled the size of the Strategic Petroleum Reserve (SPR) within the first year in office, and current plans will bring us close to the 500 million barrel level by the end of FY 1985. In light of our substantially reduced import levels, I believe that a decision raising the ultimate fill to 1 billion barrels requires very careful consideration of the costs of reaching that level, as compared with the additional benefits that it would bring. Based on several studies made by this Administration and as requested by and supplied to Congress, I believe that the current and planned SPR locations are best for the country.

11. QUESTION: Nuclear Waste Policy. The Nuclear Waste Policy Act of 1982 was strongly supported by the Administration and became law in January 1982. Yet, as of this date, no one has been named to run the program as contemplated under the Act.

(The Act establishes an Office of Civilian Nuclear Waste Management, the Director of which is subject to Senate confirmation. No nominee has been submitted,and the program, therefore, is under temporary "acting" management.)

Is it your view that this program is an important one that deserves priority attention within the Department?

Does this failure to name a full-time Director for the program suggest that the Administration recognizes this priority?

Please provide the Committee with a summary of efforts to fill this position.

ANSWER: Management of nuclear waste is certainly an important activity of the Department of Energy and deserves priority attention. Passage of the Nuclear Waste Policy Act of 1982 was a major achievement by Congress in improving the situation of current and future generations of Americans. The Office of Civilian Radioactive Waste Management is now headed by a full-time, though "acting" Director. I am confident that the Administration recognizes the importance of selecting and nominating the best qualified candidate for this high priority program. While I have not personally been involved in the selection process for the permanent Director, I am aware that the Secretary has been and is screening persons for the job and hopes to have an outstanding recommendation for this important Presidential nomination in the near future.

12. QUESTION: Clinch River Breeder Reactor. One of the more puzzling features -- for some Committee Members at least -- of the Administration's policies for energy R&D has been contrast between the dramatic de-emphasis in R&D proposed for fossil, solar and conservation technologies and the continued relatively high levels of support proposed by the Administration for nuclear R&D and, in particular, for the Clinch River Breeder Reactor Demonstration Project.

In a few weeks, the Senate will be asked to vote for a proposal developed by the Administration to appropriate $1.5 billion for this project and, in addition, to authorize off-budget supplemental funding for the CRBR.

Do you personally support this project? Why or why not?

Do you personally support the proposed financing plan? Why or why not?

ANSWER: As Secretary Hodel has stated, this Administration probably would not today support beginning Clinch River from scratch. However, given the monies already expended, and the commitments for additional expenditures and purchase of equipment already made, it is reasonably within the scope of a long-term research project to commit some level of additional funding to obtain the benefits from a completed and operating breeder reactor project.

The proposed private financing plan provides a means to offset a large portion of the otherwise governmental construction costs based upon the pledging of future revenues. This appears to me to be a reasonable means of reducing the overall governmental costs of this project.

13. QUESTION: Fusion. If the Clinch River Breeder Reactor project does not receive funds sufficient to continue the project in FY 1984, the project will almost certainly be terminated. One apparent result of this will be that the fusion program will take the place of breeder reactors as the most financially-intensive federal energy R&D effort.

Do you think it is likely that the fusion will continue to receive support for the Administration at the $500 million level to which it has become accustomed?

Should it receive support at this level? Why or why not?

ANSWER: The magnetic fusion program has been funded at an essentially flat level for the past several years, and I expect this trend to continue. The Department and the Administration have recently completed the development of a comprehensive Program Management Plan which was submitted to the Congress in June. This plan indicates that support of the fusion program is predicated upon the need for the fusion option in the Nation's energy future, as well as the near-term benefits derived from high technology developments flowing from fusion development.

The fusion program represents the type of long-range activities at the frontiers of science and human knowledge which have long been a federal responsibility. The advances in our understanding of the universe provided by this program, as well as the prospect of an inexhaustible (even if not necessarily inexpensive) energy source for future generations justifies significant federal involvement. I do not yet have an opinion as to the exact dollar amount that would be justified in light of the state of scientific progress and other budgetary considerations for any particular future year. The specific budget for FY 1985 is now under review within the Department.

14. QUESTION: Nuclear Power and the Federal Government. Because nuclear materials and nuclear technology are relevant to both civilian and military needs, the Federal Government has always been deeply involved in the nuclear enterprise, as a regulator and as a promoter. For many, it is hard to imagine how a literal application of the President's "free market" philosophy would work in the case of nuclear energy.

For example, it is unlikely that we would permit utilities to sell spent fuel to Argentina if the Federal Government's program for managing such fuel fails to perform in a timely fashion. It is also unlikely that private industry would place at risk the large amounts of capital needed for developing and demonstrating components of various nuclear fuel cycles, given the unpredictable regulatory climate that would await anyone who succeeded.

What is your view of the Federal Government's role and responsibility with respect to nuclear power?

Do you see nuclear energy as just one way to boil water?

ANSWER: The federal government has a particular responsibility for safety and security, both individual and national, in nuclear matters. Practically speaking, the federal role in the development of the currrent commercial nuclear application -- the light water reactor -- is essentially limited to the continuing responsibility for public health and safety, such as regulation and licensing of nuclear plants and provision of effective waste storage and disposal. In this regard, both the Department of Energy and the Nuclear Regulatory Commission have submitted legislation to Congress designed to put in place a more modern and predictable licensing process that better meets the needs of the public and of all participants. Previously, the passage of the Nuclear Waste Policy Act of 1982 established a clearly defined schedule with statutory authority for instituting a national system for waste storage and disposal.

It is also an important responsibility of the federal government under the Nuclear Non-Proliferation Treaty and the Nuclear Non-Proliferation Act of 1978 to ensure, in accordance with the President's Non-Proliferation Policy Statement of 1981, that international commerce in nuclear material for energy purposes does not advance the creation of weapons.

In my view, that does not justify any particular subsidy of the commercial aspects of nuclear power not available to other energy sources (e.g. the investment tax credit). Nuclear power is certainly more than "just one way to boil water," as are our other energy sources.

15. QUESTION: Entitlements. Although the President ended all federal price and allocation controls on crude oil and refined petroleum products on January 28, 1981, the final closeout has not been made of the entitlements program -- which was the basic mechanism through which the price controls were implemented.

What, in your opinion, has been the cause of this extraordinary delay?

What would you recommend to the Secretary and to this Committee should be done about ending the entitlements program?

ANSWER: The primary cause of the extraordinary delay in ending the last remnants of the federal price and allocation program has been the immense chain of litigation and confusion left behind by that program while it was in effect. The issuance of a final resolution of the entitlements program was specifically barred by litigation until December of 1981. The Resolution of Key Issues concerning the tertiary incentive program was in litigation until February 1983. Subsequent to that time, the prospect of litigation, successful or unsuccessful, in the event of any particular resolution of that program, has been a factor in the length of time required to come to a particular decision.

DOE announced in July 1983 that it would conduct a public proceeding to obtain the views of interested persons before making any final determination as to whether to publish any further entitlements lists. I understand that the Department is now about ready to begin this process, and I believe that seeking public comment from all interested persons on the many complex issues involved is the appropriate way to proceed. I would advise the Secretary to get on with this process as quickly as possible.

16. QUESTION: Oil Overcharge Funds. In your view, should funds collected by the Department in settlement of oil overcharge cases be used for any purpose other than compensating those who were overcharged?

If you think other uses of these funds are warranted, please explain how these uses should be identified.

If you do not think other uses are warranted, please explain why.

ANSWER: All funds collected by the Department in settlement of oil overcharge cases should be used first to compensate all identifiable parties who were overcharged. If the amounts paid to such identifiable and justified claimants do not exhaust the funds collected, then I believe such funds should be used for public purposes that most nearly approximate the interests of the unidentifiable overcharged parties. In appropriate cases, this may be, among others, the treasury of a state on behalf of those overcharged who generally resided in one or a few states, or the Treasury of the United States on behalf of those overcharged who are spread throughout the United States. It should be noted that in the Continuing Resolution for FY 1983, Congress last December appropriated $200 million of over-charge funds for specific state energy conservation purposes, and federal district courts have made allocations for specific purposes.

17. QUESTION: Canadian Gas Imports. I'd like to talk to you about natural gas imports. The committee adopted an amendment, to be offered on the Senate Floor when we take up the gas bill, pertaining to natural gas imports. Are you familiar with the amendment?

ANSWER: Yes. The Administration has been opposed to this amendment, as it believes that resolving any gas trade problems is a matter of governmental and commercial negotiations.

QUESTION: The amendment would be offered only if there has not been sufficient progress in talks between U.S., Canadian, Mexican, and Algerian officials about lowering their prices. What is the status of the government-to-government talks?

ANSWER: Since 85 percent of our imported gas is from Canada -- and since Mexico normally follows the gas export pricing practices of Canada -- most of our diplomatic effort has been with the Canadian government. Formal and informal bilateral discussions between U.S. and Canadian officials have been taking place for the past year, with good progress resulting. Canada lowered its export price 11 percent in April (followed by Mexico), and it initiated a discount pricing program in July whereby volumes above certain base levels are reduced $1.00 per MBtu. Additionally, contracts that are being renegotiated by the buyers and sellers in response to U.S. market conditions are being promptly approved by the Canadian government.

Discussions at the bilateral "Energy Consultative Mechanism" meeting in Ottawa on September 28 resulted in agreement to begin discussions on the development of a new gas trading framework, to replace the present uniform border price and Duncan-Lalonde gas pricing arrangement. The Canadians stated their intention to work toward a competitive gas trade arrangement and recognized the need to be flexible during the interim period. U.S. officials also received word that further changes will be announced shortly in the price discount program that will have additional economic benefits to U.S. consumers this winter heating season.

This progress in the bilateral discussions, along with the favorable contract terms being negotiated between U.S. importers and Canadian suppliers, promises to properly address the short and long-term problems connected with Canadian gas imports.

Talks have also been held with Algerian energy officials on the natural gas economy of the U.S. and the requirement that Algerian gas be competitive. This trade, however, is not based on government-to-government agreement, but is pursuant to arrangements between U.S. companies and the Algerian supplier.

QUESTION: Have you -- or other DOE officials -- met with the Canadian officials? With the Mexicans? With the Algerians?

ANSWER: I have not, to date, been involved in the diplomatic activities with these three countries, but Department officials have. The Canadian and Algerian governmental discussions have been led by Rayburn Hanzlik, Administrator of the Economic Regulatory Administration and designated by the Secretary to coordinate imported gas trade activities, and he has been assisted by staff in the International Affairs and ERA offices. Briefings of Mexican officials have been given in Mexico City by International Affairs senior officials.

QUESTION: What is the DOE position in the gas import negotiations?

ANSWER: Gas trade with the U.S. should be on a competitive basis, whereby U.S. buyers and foreign suppliers negotiate import arrangements to provide gas that is competitive with other energy sources in the regions served. A framework that will permit competitive import arrangements, which will remain responsive to changes in market conditions, is the U.S. goal.

QUESTION: Press reports tell us DOE officials have decided not to deal with current imports, but to impose restrictions on new imports only. Is that correct?

ANSWER: We will not impose government-required renegotiations of existing contracts -- for the same reason we oppose such a legislated requirement. However, short of mandating contract changes, we are encouraging U.S. importers to renegotiate their arrangements and will support resultant changes through the regulatory approval process, if required. Further, we have informally indicated a new policy direction on gas import trade that will require competitive arrangements for new imports. This has provided the climate in which renegotiation activity is now taking place, which -- along with the pricing changes being implemented by the Canadian government -- is addressing the recent marketing problems connected with Canadian gas.

QUESTION: How will that provide any price relief for consumers who have been particularly hard hit by current import projects involving high-priced gas?

ANSWER: The Canadian price reduction and discount program have already benefited certain regions, particularly the West Coast. This action is estimated to have saved consumers $240 million to date. The effect on consumers of the renegotiated contracts cannot yet be fully assessed, as this activity is still underway. We do know, however, of specific examples, such as the agreement renegotiated by Michigan-Wisconsin Pipeline Company earlier this month, which will save its customers almost $100 million for the 1982-83 contract year. Similar savings can be expected from other renegotiated contracts soon to be announced.

OCT 21 1983

Honorable James A. McClure
Chairman
Committee on Energy and
Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to provide for the record the enclosed answers to questions which were submitted to me following your Committee's October 17, 1983, confirmation hearings on my nomination to be Chairman of the Federal Energy Regulatory Commission.

I will be glad to provide any additional information which may be required by you or any other members of the Committee.

Thank you for the courtesies extended to me during the hearing process. I am most grateful.

Sincerely,

Raymond J. O'Connor

Enclosures

29-365 O - 84 - 6

QUESTIONS SUBMITTED BY CHAIRMAN JAMES A. MCCLURE

Excessive Delays in Hydropower Development

Question: Recent decisions by the Commission have caused excessive delays in authorizing hydropower development. Do you support a streamlining of procedures and regulations to expedite decisions on hydropower cases?

Answer: Although I am not familiar with the decisions you refer to, I fully support streamlining procedures and regulations to expedite Commission decisions on hydropower cases. As part of my involvement with the President's Private Sector Survey on Cost Control, we reviewed the hydropower licensing process at the Commission. Our report recommended further development and utilization of the agency's computerized Management Information System to give the Commission better knowledge of the cases and issues pending before it. Also mentioned were increased use of generic rulemaking procedures to resolve major issues efficiently and a revised procedure for reconsidering initial decisions issued by the Administrative Law Judges. I am confident that there are other significant improvements that can be made in case processing procedures and regulations.

Cumulative Environmental Impact on Hydroelectric Projects

Question: Recent indications by the Commission indicate that it will undertake so-called cumulative river basin impact assessments. In the past, the Commission's policy was to consider cumulative impacts of projects as they were proposed for development, i.e., as each proposal is submitted for authorization, the cumulative impacts would be assessed for all previous and currently proposed developments. Under this approach, where numerous projects are under study in a river basin, only those actually proposed for development would be considered, thereby eliminating the need to speculate on future development. Many projects are studied, but are never developed for economic, technical, or environmental reasons. Would you support a return to the Commission's earlier policy on this issue?

Answer: The cumulative effects issue has significant consequences on hydropower development throughout the nation. Since this issue is part of a pending proceeding before the Commission, the staff advises me that legal precedent prevents me from commenting on this area. If confirmed, I intend to review all the facts surrounding this problem as well as applicable case law during the course of this Commission proceeding.

Financing and Negotiating Contracts for Hydro Developers

Question: Due to economic conditions, hydro developers have had difficulty in obtaining financing and negotiating contracts. Under such circumstances, developers of hydro projects often need additional time to resolve these issues before construction of a project can begin. The Commission has taken the position that extensions of time to begin construction should not be granted if delays are caused by economic or contract reasons. Would you support a more liberal policy on this issue?

Answer: Decisions on requests for extensions of time should consider a balance between expeditious development of power and equitable treatment of the various applicants for the project. I have been advised that the Commission's policy has been to encourage expedited development in hydropower. Often, where the licensee or exemptee is unable to proceed in a timely manner, there are other parties who would proceed to develop the site, if the site were available for development. If confirmed, I will evaluate such requests giving consideration to all relevant factors, including reasonable difficulty in obtaining financing and negotiating contracts.

Staff Reorganization

Question: One of the problems my staff has noted in trying to obtain information from FERC staff is that no one office is responsible for handling any case from the day it is submitted to completion, i.e., issuance of license or permit, etc. Recent reorganizations with FERC have exemplified this problem with the outward response to suggest little or no internal coordination. My staff believes a reorganization of some sort that would place all technical and legal staff under one responsible office director may alleviate this problem. Further, the office director should be a qualified expert in the field he regulates with a complete support staff of technical and legal advisors. Would you support such a reorganization?

Answer: Established lines of authority and responsibility certainly are important, as is sufficient internal coordination within the various parts of an organization. I intend to work toward such a goal.

For the given example of issuance of licenses or permits, different areas of expertise are involved. Various kinds of engineering and environmental analyses, legal analysis, and perhaps input from other disciplines are required for the development of a record adequate for decisionmaking. These areas of expertise are mutually complementary; no one discipline is necessarily paramount. Whether the Commission itself decides a pending matter, or whether the decision is ministerial and can be made by the office director under delegated authority, all relevant disciplines should be involved in the decisional process. Whether or not this should be within a single office or spread among several is a question I am not prepared to answer until I have reviewed the organizational structure. Additionally, with the further implementation of the case tracking system that I will pursue, responsibility for cases at given times should be easily determined.

Increase in Administrative Staff

Question: In my review of the Commission budget, I have noted over the last 5 to 6 years that there has been a large increase in only one area of the staff, i.e., administrative staff. This increase as a percentage of total staffing is inappropriate, particularly when other staff has not increased in the same proportion to the workload. Will you seek to realign staffing allotments to bring a better balance to the overall staff? Recent problems with productivity may be corrected if more staff is devoted to production instead of administration.

Answer: I have been informed that the Commission staff recorded a 38 percent reduction in work in process during Fiscal Year 1983. Part of this performance is attributable to the Commission's management which instituted a series of well-documented initiatives to improve productivity and address temporary manpower shortages. For example, the President's Private Sector Survey on Cost Control team found that the Management Information System used by the FERC is a valid foundation on which to build the basic management control tool to expedite caseload. Although the system has not been utilized to its fullest potential, it has been instrumental in achieving these commendable results. In addition, the General Accounting Office performed a study on the Commission's productivity and their preliminary findings indicate that FERC accomplished a 12 percent overall increase in productivity over the past two years and a 33 percent improvement in timeliness in processing its workload. In FY 1978, the Commission reported a completion ratio to workyear of 21:1. In FY 1983, that ratio improved to almost 51:1. These statistics suggest a pretty fair balance in the overall staff allocations.

Looking behind these statistics, I have been informed that the overall legal and technical staffs have increased by 30 percent since 1977 while administrative support personnel have decreased by 6 percent during the same period. When the Federal Power Commission became the FERC in 1977, administrative support personnel represented 17.2 percent of all employees. During FY 1984, 11.5 percent of all positions are earmarked for direct administrative support positions, a reduction of 5.7 percent during a period when new Congressional requirments such as paperwork reduction, financial integrity, and cash management have increased the administrative workload considerably. The FY 1984 budget which Congress recently approved, contains an increase of 120 positions specifically designated for administrative functions that have been turned over to the Commission by the Department of Energy. As part of the DOE Organization Act, the Commission gave up most of its administrative personnel in FY 1978,

retaining only 11 positions to carry out budget preparation and execution, procurement, facilities operations, management analysis, and personnel. The Commission relied on decentralized DOE services through a Common Support Agreement for support in these areas and total reliance on DOE for accounting, travel, transportation, warehousing and telecommunications.

The physical separation of the Commission, which is one of the Department's largest headquarters elements, along with other factors, eventually caused both parties to reconsider the effectiveness of the arrangement. The situation deteriorated to the point of adversely affecting morale and undermining productivity gains of the technical staff.

Thus in early FY 1982, Commission management determined that many of the administrative functions could be performed in-house at less cost with more expeditious service. The Commission has assumed all of its administrative functions except accounting which will be returned on February 1, 1984. It is my understanding that the transition has been accomplished thus far without any break in services or loss of support.

Nevertheless, I will certainly review this question to ensure that a proper balance of technical and administration staff exists at the Commission.

Staff Reallocation

Question: Regarding the preceding question, I request that you report to this Committee within 3 months of your taking office your efforts to reallocate staff to properly deal with workload.

Answer: It is my understanding that the Commission's FY 1985 budget request, that was submitted to the Office of Management and Budget on September 15, 1983, requested an increase of 165 staff years for dam safety inspections, hydroelectric licensing, and electric power regulation to handle current and anticipated workload in these program activities.

Certainly, one of my priorities upon assuming office will be to conduct a performance review of the various levels within each of the Commission's regulatory domains. I will focus on accountability, timeframes, procedural and organizational factors, management information enhancements and workload/workyear ratios. Based on these reviews, I will then take the appropriate action and report to this Committee as well as the Appropriation Subcommittees during my FY 1985 Congressional budget testimony in February, on the allocation of staff to the various programs and activities and the rationale behind the allocations.

List of Personnel

Question: I have requested in the past that the Commission list the number of personnel in each office and division for several years. Please provide the same information from 1977 to date and explain each increase in staffing during that period.

Answer: The Commission staff has provided me with the following data on the number of personnel for each office and division from FY 1977 to the present is represented on the attached charts. The explanations of the changes in ceilings by fiscal year are listed below:

1. The FY 1977 total of 1,438 to the FY 1978 total of 1,361 reflects a net decrease of 77 positions which was a direct result of the transfer of 259 administrative and data processing positions to the Department of Energy, the Energy Information Administration and the Economic Regulatory Administration. However, this was partially offset by a reprogramming of 182 positions from DOE to FERC to aid in the implementation of the National Energy Act.

2. The FY 1978 total of 1,361 to the FY 1979 total of 1,800 reflects an increase of 439 positions largely in support of the Natural Gas Policy Act (NGPA). This increase also supported the Office of Electric Power Regulation which received a 15 percent increase in resources due to the Public Utilities Regulatory Policy Act (PURPA).

3. The FY 1979 total of 1,800 to the FY 1980 total of 1,788 reflects a decrease of 12 positions. The Office of Pipeline and Producer Regulation reduced its ceiling by 127 positions because of the corresponding reduction in the workload requirements in the administration of wellhead pricing area. There were slight increases in staffing levels in the Office of Electric Power Regulation to handle workload increases due to PURPA and small hydro incentives. There was a significant increase of 80 percent in the Office of Congressional and Public Affairs, as the Commission established a formal congressional and interagency liaison office. In addition, in order to improve regulatory responsiveness, the Commission embarked on developing a comprehensive Management Information System to identify each of the Commission's product categories and to provide various yardsticks to measure staff productivity and responsiveness to regulatory needs, and the accountability of specific persons for all aspects of specific cases. As a result, the Office of Program Management was established as well as an Office of Management Services to deal with day-to-day management of the facilities and building operations.

4. The FY 1980 total of 1,788 to the FY 1981 total of 1,722, reflects a decrease of 66 positions largely in the area of natural gas regulation as the Commission gained experience implementing the NGPA. More positions were added to the legal staff to address their increasing workload demands and to establish a Legal Precedent System to aid FERC attorneys in legal research.

5. The FY 1981 total of 1,722 to the FY 1982 total of 1,636 reflects a decrease in ceiling of 86 positions. Although FERC's FY 1982 budget requested 1,813 positions, the Commission was held to the 1,636 level as a result of various hiring freezes and funding limitations imposed on the Commission. The Commission as a result of the hiring freezes, held the offices to their on-board strength at the beginning of the fiscal year with the bulk of the reductions in the natural gas area.

6. The FY 1982 total of 1,636 to the FY 1983 total of 1,701 was an increase of 65 positions. However, because the Commission was operating at a $3 million deficit until the supplemental was approved in August 1983, severe hiring restrictions had to be again imposed to offset funding shortfalls as a result of a continuing resolution. The net result was that virtually all offices were frozen at on-board strength until the supplemental was received. Beginning in late August, an accelerated recruiting program began in order to take over all administrative and support functions from the Department by February 1984 thereby increasing the Office of Program Management by 75 positions.

October 18, 1983

SUMMARY OF AUTHORIZED CEILINGS AS A PERCENT OF TOTAL COMMISSION CEILINGS

	FY 1977		FY 1978		FY 1979		FY 1980		FY 1981		FY 1982		FY 1983	
	AUTH.	%	AUTH.	%	AUTH.	%	AUTH.	%	AUTH.	%	AUTH.	%	AUTH.	%
Office														
COMM	35	2.3	30	2.2	30	1.7	30	1.7	35	2.0	32	2.0	26	1.6
OCIPA	18	1.3	19	1.4	22	1.2	40	2.2	30	1.7	27	1.7	31	1.8
ED	- 1/		18 3/	1.3	23 3/	1.2	5	.3	11 8/	.6	8	.5	8	.5
PERS	30	2.1	-		-		10 5/	.6	9 5/	.5	5	.3	37	2.2
PMO	183 2/	12.7	-		-		115 6/	6.4	130 6/	7.6	121	7.4	196 9/	11.5
OGC	168	11.7	216 4/	15.9	293 4/	16.3	304 4/	17.0	272	15.8	272	16.6	272	16.0
OOP	17	1.2	32	2.3	39	2.2	52	2.9	39	2.3	38	2.3	40	2.4
ALJ	43	3.0	47	3.5	49	2.7	50	2.7	50	2.9	47	2.9	50	2.9
SEC	67	4.7	72	5.3	75	4.2	35 7/	2.0	42	2.4	38	2.3	32	1.9
ORA	36	2.5	34	2.5	36	2.0	35	2.0	25	1.5	33	2.0	28	1.6
OCA	110	7.6	105	7.7	115	6.4	113	6.3	113	6.6	104	6.4	96	5.6
OEPR	366	25.5	353	26.0	405	22.5	413	23.1	405	23.5	395	24.1	405	23.8
OPPR	365	25.4	435	32.0	713	39.6	586	32.8	561	32.6	516	31.5	480	28.2
TOTAL	1438		1361		1800		1788		1722		1636		1701	

Footnotes follow on next page.

October 18, 1983

FOOTNOTES

1/ Not available separately; included in Office of Commissioners ceiling.

2/ FPC Offices of Administrative Operations, Comptroller, and Regulatory Information Systems transferred to DOE under the DOE Organization Act.

3/ Includes staff that became Office of Program Management in FY 1980.

4/ Includes former Office of Enforcement.

5/ Includes Office of Special Projects.

6/ Includes Office of Program Management and Office of Management Services.

7/ Reflects transfer of Central Files function to the Office of Management Services.

8/ Six vacancies carried for TAPS/ANGTS positions.

9/ Reflects Common Support positions transferred back from DOE.

October 18, 1983

FEDERAL ENERGY REGULATORY COMMISSION
SUMMARY OF STAFFING

	FY 1983		FY 1982		FY 1981		FY 1980		FY 1979	FY 1978	FY 1977
Office	CEILING	FTP ON BOARD	CEILING	FTP ON BOARD	CEILING	FTP ON BOARD	CEILING	FTP ON BOARD	CEILING	CEILING	(FPC) CEILING
Commissioners	26	27	32	24	35	24	30	22	30	30	35
Cong. Intergovernmental, and Public Affairs(Office of Public Information)	31	30	27	29	30	28	40	20	22	19	18
Director		2		4							
Congressional Liaison		5		5							
Public Affairs		19		17							
Intergovernmental Affairs		4		3							
Executive Director	5	5	8	7	11	5	5	4	23	18	
Internal Audits	3	1									
(Office of Special Projects)					4	3	5	2			
Personnel	37	4	5	3	5	5	5	5			30
(Office of the Comptroller)											32
(Administrative Operations)											70
(Information Systems)											81
(Management Services)					82	72	83	65			
Program Management	196	148	121	113	48	45	32	28			
Director		4		4							
Division of Planning & Information Management		66		58							
Division of Energy Data		12		13							
Division of Budget & Finance		27		15							
Division of Facilities & Operations Support		33		23							
Division of Computer Operations		6									

FEDERAL ENERGY REGULATORY COMMISSION
SUMMARY OF STAFFING

October 18, 1983

Office	FY 1983 CEILING	FY 1983 FTP ON BOARD	FY 1982 CEILING	FY 1982 FTP ON BOARD	FY 1981 CEILING	FY 1981 FTP ON BOARD	FY 1980 CEILING	FY 1980 FTP ON BOARD	FY 1979 CEILING	FY 1978 CEILING	FY 1977 (FPC) CEILING
General Counsel	272	258	272	259	272	260	249	228	238	196	168
General Counsel		6		5							
Deputy General Counsel		5		5							
Dep. Gen. Counsel for Litigation & Enforcement		183		188							
Deputy Gen. Counsel for Legal & Administrative Affairs		22		24							
Associate General Counsel for Rulemaking & Policy Coordination		24		18							
Solicitor		18		19							
(Office of Enforcement)							55		55	20	
Opinions & Review	40	41	38	41	39	41	52	42	39	32	17
Administrative Law Judges	50	49	47	50	50	48	50	50	49	47	43
Secretary	32	31	38	33	42	36	35	27	75	72	67
Exec. Secretariat		6		6							
Agenda & Minutes		6		7							
Document Control		19		20							
Regulatory Analysis (Policy Analysis)	28	28	33	31	25	28	35	31	36	34	36
Director		6		7							
Economics & Finance		12		13							
Anal. & Policy Devel.		10		11							
Chief Accountant	96	94	104	100	113	104	113	106	115	105	110
Chief		4		4							
Accounting Systems Division		15		16							
Audits Division		75		80							

October 18, 1983

FEDERAL ENERGY REGULATORY COMMISSION
SUMMARY OF STAFFING

	FY 1983		FY 1982		FY 1981		FY 1980		FY 1979	FY 1978	FY 1977
Office	CEILING	FTP ON BOARD	CEILING	FTP ON BOARD	CEILING	FTP ON BOARD	CEILING	FTP ON BOARD	CEILING	CEILING	(FPC) CEILING
Pipeline & Producer Reg.	480	469	516	499	561	529	586	567	713	435	365
Director		11		11							
Program Planning & Administrative Staff		15		18							
Technical Review & Analysis		32		33							
Gas Pipeline Rates		80		98							
Special Pipeline Rates (Oil Pipeline Rates)		66		45							
Pipeline Certificates		63		71							
Pipeline Special Projects (Curtailments & Special Projects)		42		49							
Prod. Rates & Certificates		70		72							
Producer Audits & Pricing (NGPA)		90		102							
*Electric Power Regulation	405	273	395	256	405	376	413	362	405	353	366
Director		16		14							
Interconnection & System Analysis		30		27							
Electric Rate Regulation		85		69							
Hydropower Licensing		129		88							
Inspections & Hydro License Administration		13		-							
(Environmental Analysis)				38							
(Hydropower Resource Analysis)				20							
Regional Offices		131		131		**		**		**	
New York		26		27							
Atlanta		24		24							
Chicago		28		29							
Fort Worth		15		15							
San Francisco		38		36							
TOTAL	1701		1636		1722		1788		1800	1361	1438

* Ceiling includes Headquarters and Regional Offices.
** Separate breakout not available.
() Indicate obsolete offices.

QUESTIONS SUBMITTED BY SENATOR J. BENNETT JOHNSTON

Cumulative Impacts of Hydroelectric Power Projects

Question: People are concerned about the cumulative effects on fisheries and other environmental factors of development of large numbers of non-federal smaller scale hydroelectric power projects being licensed by the FERC. There are cases where individual river basins have as many as 60 proposals before the FERC at once. In the past, FERC has avoided doing cumulative effects studies in the course of the licensing process. Would you urge Commission action to initiate such studies when necessary to assure that license decisions do not have the unintended result of major setbacks in fishery restoration (e.g., Atlantic salmon runs) or dewatering streams for miles when local economies depend on these rivers?

Answer: The cumulative effects issue has significant consequences on hydropower development throughout the nation. Since this issue is part of a pending proceeding before the Commission, the staff advises me that legal precedent prevents me from commenting on this area. If confirmed, I intend to review all the facts surrounding this problem as well as applicable case law during the course of this Commission proceeding.

Dam Ownership Problems

Question: There has been a lot of "claim jumping" -- using the condemnation powers afforded a FERC licensee for hydropower projects under the Federal Power Act to take dams belonging to other people as well as state-owned dams for private development. Should the Congress consider enacting a dam-owner preference in licensing to protect non-federal dam owners?

Answer: In deciding whether dam-owner applicants should be favored over non-owner applicants, one must balance two worthwhile but competing goals. On the one hand, an owner-applicant has immediate access to the site for purposes of conducting feasibility studies, and could construct the power project without the delay and expense of acquiring the necessary property rights by purchase or condemnation. Moreover, if the dam is currently being used for other purposes, such as water supply, these uses might be more easily reconciled with the power project if the current owner were also to install the electric generating facilities.

On the other hand, an outright owner preference could have a chilling effect on development by inhibiting the efforts of non-owner

competing applicants. This loss of initiative in developing hydropower potential -- a national resource -- could significantly slow the rate at which existing dams are being retrofitted with facilities to generate electric energy.

Since I am not completely familiar with the dam-owner preference question, I plan to study this issue further.

Greater State Say In Locating Hydroelectric Power Projects

Question: In New England states there is growing concern that states should have more of a say in decisions on where hydropower development takes place. Some of our states have developed statewide plans identifying those streams where states are seeking to promote development and others where state policy discourages development (for example on state wild and scenic rivers, state parks, wild trout fishing streams, etc.). Thus far FERC has not acknowledged these state initiated efforts in any formal or even informal way. Would you be disposed to granting more deference to states on licensing decisions that FERC is charged with?

Answer: Input from state and local agencies to Commission decisionmaking on hydropower development is welcome, and indeed invited. I am advised that, under present procedures, state and local agencies are consulted by the applicant before the hydropower application is filed with the Commission; after an acceptable application is filed, agencies are asked to comment to the Commission on applications pending before the Commission. Agency comments become a part of the record before the Commission. Under existing applicable law, the Commission should not rely arbitrarily on only one part of the record. The Commission has the responsibility to reach an independent judgment based on the entire record, which should include the position of all parties involved in the proceeding.

Public Power Preference on Relicensing of Hydropower Projects

Question: The Commission has just reversed itself on the question of public power preference on relicensing of hydroelectric power projects. What is your feeling on public power preference in these instances?

Answer: In its recently issued opinion in Pacific Power & Light Company, Project No. 935, et al. ("Merwin Dam"), the Commission determined that the tie-breaker preference that Section 7(a) of the Federal Power Act accords municipal license applicants does not apply where the municipality is competing against the original licensee for

a new project license. The issue which this decision addressed is controversial and of significance to the future course of hydroelectric power development in this country. However, since the Merwin Dam case is pending before the Commission on rehearing, it would not be appropriate for me to comment further on the preference issue at this time due to legal precedent.

Application Fees

Question: Some have advocated that FERC attempts through a system of license and permit fees to pay its own way. How strongly do you feel that licensees should carry the costs of Commission processing of license applications and permit fees?

Answer: The FERC staff informs me that existing statutes authorize the collection of fees in appropriate circumstances. For example, the Independent Offices Appropriation Act authorizes an agency to collect its cost of providing a service or benefit from the entity that receives the service or benefit. More specifically, I am informed that section 10(e) of the Federal Power Act directs the Commission to recover from "licensees" the costs the Commission incurs in administering Part I of that Act.

While it is clear from my statement that I am in general agreement with the exercise of the existing statutory authority in appropriate circumstances, I am advised not to comment on this issue because of the fee rulemakings pending at the FERC.

Power Marketing Program

Question: Many of my constituents in Louisiana receive their electric utility service through rural electric cooperatives and municipal electric utility systems. Such utilities are entitled to a preference in the purchase of power marketed by the Southwestern Power Administration. These constituents, and the customers of the other federal power marketing administrations throughout the country, are extremely concerned about the recommendations affecting the power marketing program contained in the Grace Commission report. These recommendations included the suggestion that the public resources which generate the power marketed by the power marketing administrations be sold at a profit to the private sector, and, if that cannot be accomplished, then every effort should be made to

increase the rates charged for this power. In view of these recommendations and your role as part of the Grace Commission, they have serious reservations about your ability to impartially review rates proposed by the power marketing administrations.

Are you in agreement with the Grace Commission recommendations regarding the power marketing administrations? Do you regard FERC as an appropriate forum for implementing any of these recommendations? Do you believe you can review power marketing issues in a fair and impartial manner notwithstanding your support of the Grace Commission recommendations?

Answer: I was a member of the President's Private Sector Survey on Cost Control known as the Grace Commission. The Commission's report made several recommendations with regard to the policies and procedures utilized by federal power marketing administrations in establishing their rates. Since I did not participate in the preparation of the Commission's study and recommendations concerning PMAs, I cannot provide any substantive comments on the merits of the Commission's recommendations.

Power Marketing Rates

Question: Under the law, the Department of Energy has control over rate and repayment policies for the power marketing programs, not FERC. Federal law with respect to the sale of federally generated power is quite clear in requiring that the rates be as low as possible consistent with sound business principles. On three different occasions during the past year, Congress has prohibited the expenditure of funds by the Administration for any studies designed to increase rates above this congressionally directed level, and mandated that such rates be cost-based.

Within the bounds of the law and given the repeated recent expressions of Congress regarding cost-based rates, what latitude do you believe FERC has with respect to power marketing rates?

Answer: I have been advised by Commission staff that the FERC's review authority over power marketing administrations' rates is limited. As the Commission noted in its November 21, 1980 order with regard to the Bonneville Power Administration in Docket No. EF80-2011, 13 FERC ¶ 61,157:

> Unlike our statutory authority under the Federal Power Act or the Natural Gas Act, the statutory mandate accorded to the Commission under the power-marketing acts does not include the power to modify the rates. The power marketing acts vest the responsibility to develop rates in the first instance in the BPA's Administrator. Those rates are then transmitted to the AS/RA for confirmation and approval on an interim basis. The interim rates and an evidentiary record are then submitted to the Commission for final confirmation and approval, or disapproval. Thus, the Commission's role can be viewed as an appellate one: to affirm, reverse, or remand the rates submitted to it for final review.
>
> Not only is the Commission's function under the power-marketing acts different from its functions under the Natural Gas Act and the Federal Power Act, but the substantive standards it must apply also differ. Under the federal power-marketing statutes, the Commission must determine that proposed rates would provide a sufficient level of revenues to BPA to recover its costs and repay the federal investment within a reasonable period of time. The Commission's review in this manner is based on the supporting data and information submitted by the AS/RA consistent with the statutory standards set forth in the applicable power marketing acts.

This standard and procedure would also apply to the other power marketing administrations as well.

Reviewing Power Marketing Rates/FERC Role

Question: In my view, FERC has two basic responsibilities with respect to reviewing rates of the power marketing administrations. The first is to protect the federal investment by ensuring that the rates are set consistent with the rate and repayment policies established by the Department of Energy. The second is to ensure that customers of the power marketing administrations are protected against overreaching or overcharging by the power marketing administrations. I believe FERC should serve as a forum, providing these customers an opportunity to have their disputes heard. However, in a recent case, the Committee on Power for the Southwest, a regional organization representing the power marketing customers of the Southwestern Power Administration, was denied an opportunity to intervene and contest a SWPA rate proposal.

What are your views on the proper role of FERC in reviewing power marketing rates? What rights should customers have in such proceedings?

Answer: I believe the Commission must appropriately provide a broad opportunity for the submission of customers' concerns, although it is not always essential that the opportunity be in the form of an evidentiary hearing. I agree with the Federal Energy Regulatory Commission's statement in its November 21, 1980 order in Docket No. EF80-2011, stating:

> ... The Commission has the authority to institute a hearing whenever necessary. However, the Commission would expect that due process and hearing requirements generally would be satisfied when the proposed rates are being reviewed by the AS/RA, because the responsibility for developing the rates resides with the AS/RA acting by and through the Administrator or BPA, and not with the Commission...

I also looked into your statement that in a recent FERC case, the Committee on Power for the Southwest was denied an opportunity to intervene in a Southwestern Power Administration rate case. I am advised that by Commission order issued August 1, 1983, in Docket No. EF83-4011, the Committee on Power for the Southwest was granted intervention. Subsequently, the Committee's request for rehearing of the August 1 order approving SWPA's rates was denied by operation of law.

Natural Gas Legislation

Question: Are you familiar with S. 1715, the Committee's pending natural gas bill? Do you support its enactment?

Answer: I am familiar generally with the approach taken in S. 1715, and I fully support the overall objectives which will enable a smooth transition to a freer market and provide additional incentives for future gas supplies. More importantly, I believe that S. 1715 will protect the interests of the American consumer during the transition.

Natural Gas Legislation

Question: Your predecessor, Chairman Butler, suggested several amendments to the President's proposed natural gas legislation, S. 615. Do you support any amendments to S. 1715?

Answer: I have not yet had time to study the bill in detail, nor have I had a chance to confer with the Commission staff on how easily the bill's proposals could be implemented. After further study, I will be glad to submit my suggestions, if any, for amendments to S. 1715.

Grace Commission Report

You served as one of the members of the President's Private Sector Survey on Cost Control, known as the Grace Commission. The Commission's Task Force Report makes several recommendations for improving FERC procedures and expediting case handling. It estimates that $9 million could be saved the first year the procedures are implemented, with savings of $29 million over three years.

Question: Do you intend to implement the task force's recommendations which do not require new authorizing legislation.

Answer: With regard to the task force's recommendations which do not require new authorizing legislation, the staff of the FERC informs me that the management, administrative, and procedural recommendations have either been implemented or are in the final stages of implementation at the initiative of the former Chairman. Some of these recommendations require initiation of formal rulemakings and I must reserve my comments while these issues are under consideration by the Commission. As you have indicated in your question, savings of the magnitude discussed in the Private Sector Survey report can only be realized through legislative initiatives such as natural gas deregulation, increasing the exemption threshold for small hydroelectric installations from 5 to 15 megawatts, and deregulation of oil pipelines.

I would note that since September 1982, I have had no further contact with the FERC relating to the Task Force's recommendations. I will, if confirmed, consider such recommendations to the extent I am convinced they will increase the efficiency of the Commission.

QUESTIONS SUBMITTED BY SENATOR PAUL E. TSONGAS

Cumulative Impacts of Hydroelectric Power Projects

Question: People are increasingly concerned about the cumulative effects of large numbers of non-federal smaller scale hydroelectric power projects being licensed by the FERC on fisheries economics and on environmental factors of development. There are cases where individual river basins (e.g., the Connecticut River basin) have as many as 60 proposals before the FERC at once. In the past, FERC has avoided doing cumulative effects studies in the course of the licensing process. Would you urge Commission action to initiate such studies when necessary to assure that license decisions do not have the unintended result of major setbacks in fishery restoration (e.g., Atlantic salmon runs) or dewatering streams for miles when local economies depend on those rivers?

Answer: The cumulative effects issue has significant consequences on hydropower development throughout the nation. Since this issue is part of a pending proceeding before the Commission, the staff advises me that legal precedent prevents me from commenting on this area. If confirmed, I intend to review all the facts surrounding this problem as well as applicable case law during the course of this Commission proceeding.

Comprehensive Plan for River Basin Development

Question: What -- in your view -- is the meaning and nature of the comprehensive plan for development of a river basin, which FERC is mandated to prepare by Section 10 of the Federal Power Act?

Answer: Section 10(a) of the Federal Power Act requires for licensing that the hydropower project

> ". . . shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes."

The FERC staff informs me that case law has equated this provision to a test of whether the project is in the public interest, requiring an exploration of all issues relevant to the public interest including power generation, flood control, navigation, recreation and aesthetic considerations, fishery resources, irrigation, domestic and industrial water supply, and water quality.

Greater State Say In Locating Hydroelectric Power Projects

Question: In New England states there is growing concern that states should have more of a say in decisions on hydropower development sites. Some of our states have developed statewide plans identifying those streams where states are seeking to promote development and others where state policy discourages development (for example on state wild and scenic rivers, state parks, wild trout fishing streams, etc.). More specifically, Maine has recently developed a comprehensive state plan for state rivers, in an effort to resolve the growing conflict between recreation needs and river basin development for hydropower. The Massachusetts Scenic Rivers Program is addressing similar issues, as do Vermont and New Hampshire state planners. Thus far FERC has not acknowledged these state-initiated efforts in any formal or even informal way.

Would you be disposed to granting more deference to states on licensing decisions that FERC is charged with?

Answer: Input from state and local agencies to Commission decisionmaking on hydropower development is welcome, and indeed invited. I am advised that, under present procedures, state and local agencies are consulted by the applicant before the hydropower application is filed with the Commission; after an acceptable application is filed, agencies are asked to comment to the Commission on applications pending before the Commission. Agency comments become a part of the record before the Commission. Under existing applicable law, the Commission should not rely arbitrarily on only one part of the record. The Commission has the responsibility to reach an independent judgment based on the entire record, which should include the position of all parties involved in the proceeding.

CWIP Policy Act of 1983

Question: What -- in your view -- are the incentives for a utility with severe cost overruns to terminate construction of unnecessary plants, under the CWIP (Construction Work in Progress) Policy Act of 1983 provisions? How would consumers' interests be addressed by FERC?

Answer: First, I should point out that the Commission has limited jurisdiction, approximately 10-12 percent, over the electric rates charged by electric utilities. Therefore, the effect of Commission determinations, and the Construction Work in Progress Policy Act of 1983, on utility construction decisions is limited.

I have not had the opportunity to study the CWIP Policy Act of 1983 in detail, but I do have a general understanding of the Bill. The FERC staff informs me that the Bill may provide an incentive to complete rather than terminate plants under construction. A utility that is building the new capacity has made a decision at some point that the construction will be necessary and has invested funds in construction. The utility may be willing to run the risk of completing the construction in hopes that it will be able to place the capacity in rate base and earn a return of and on its investment, rather than terminating construction with the potential for no return at all.

Without a thorough study of the Bill, I am unable to specifically advise you how the consumers' interests will be addressed if the Bill should become law. Nevertheless, I can assure you that, if the Bill is passed, I will seek to implement it consistent with the intent of the legislation and its balancing of consumers' interests.

Importation of Canadian Hydropower

Question: Under what conditions would you block importation of power from the Canadian network to New England, given substantial price differentials between Seabrook nuclear power, say, and Canadian hydropower?

Answer: I have been advised by the FERC General Counsel that the Economic Regulatory Administration of the Department of Energy has the authority under the Federal Power Act to approve or reject, or set terms and conditions on exports and imports of electricity.

The Role of FERC in a Deregulated Natural Gas Market

Question: How do you define the role of FERC in a deregulated natural gas market situation, and how would you respond to specific regional needs for natural gas supplies (e.g. New England)?

Answer: I am assuming "deregulated gas market" means total removal of natural gas pricing control at the wellhead. Under such circumstances, it is not possible to predict, at this time, the FERC's role due to (a) the rapidly changing structure of the total gas industry, and (b) the various kinds of transactions that will develop. It is possible, however, to set down two general guidelines: The Commission should approach the new market conditions without any preconceptions and on the basis of the best available facts and analysis; and it should not lose sight of the ultimate goal of assuring an adequate supply of natural gas at a reasonable price.

Such ultimate goal has a regional dimension as well as a national one. If confirmed, I will encourage the continuation and expansion of exploration and development programs to ensure that all regions of the country will have the opportunity to obtain adequate supplies at adequate prices.

With respect to New England, I am aware of the proximity of abundant Canadian natural gas supplies. Currently in litigation before an Administrative Law Judge at the Commission is a proceeding which involves competitive applications to import natural gas from Canada to serve all of New England. Since these proposals are pending, I can only say that they will be thoroughly scrutinized before a decision is rendered.

I am aware that New England's current access to domestic natural gas supplies is constrained by limited pipeline capacity. I would be inclined to favor the construction of additional pipeline capacity in order to provide additional supplies at a reasonable price. In addition, I appreciate the significance of imported LNG to New England and I intend to monitor existing projects to ensure they are compatible with the needs of the region's consumers.

QUESTIONS SUBMITTED BY SENATOR JOHN HEINZ

Rising Wellhead Prices

Question: As you may know the natural gas prices have been rising despite a surplus of deliverability estimated to be in the range 2 to 3 trillion cubic feet. To what do you attribute such price increases? To what extent can the FERC moderate price increases which are not related to market realities?

Answer: It is my understanding that wellhead prices and resale prices of natural gas have stopped increasing. Past price increases in the face of the growing surplus were primarily due to inflexible contract provisions that tracked the monthly escalations in maximum wellhead prices prescribed by the NGPA. I am informed that prices under these contracts are very gradually being adjusted to reflect market realities and the current surplus.

If confirmed, I will ensure that the Commission implements the mandates of Congress.

Decontrol of Old Gas

Question: What is your position on the decontrol of old gas?

A. What factors do you deem most important in whether or not to decontrol old gas?

B. How important is the impact on consumers?

C. How important is the impact on supply?

Answer: Generally speaking, I believe that wellhead prices should never have been subjected to price controls in the first instance. Natural gas production is not a natural monopoly, but it is instead a workably competitive industry in which competition should be permitted and indeed encouraged. The fundamental problem with price controls is that prices are either set at market levels, in which case controls are largely irrelevant, or below market levels, in which case controls create shortages such as experienced by the natural gas consumer in the 1970's. Moreover, when prices are set below market value levels, investment and consumption decisions are inevitably distorted. And these distortions breed economic inefficiencies which make everyone worse off.

The impacts on consumers, transporters, and suppliers of natural gas are all important factors in the debate over how best to remove controls. With regard to the impact on supply, I feel over the long run, the removal of wellhead price controls will assure that the necessary investments will be made to ensure adequate supplies of properly-priced gas for the future.

The question of whether and how the price of all gas should be decontrolled is one that can only be addressed by the Congress. Only the Congress has the legal authority to decontrol the price of natural gas.

If confirmed, I will be committed to implementing and enforcing the laws as currently written.

Deregulation Provisions of S. 1715

Question: As you know, S. 1715 would allow producers and pipelines alike to abrogate their contracts and ramp up or ramp down their contract prices to an artificially created price.

A. What in your estimation would the impact be of eliminating 40-50,000 natural gas contracts in the natural gas market place?

B. What will the impact of the so called "ramp down" in prices be on independent producers who have made capital investments based on the incentive price system established by the Natural Gas Policy Act? Specifically, what will be the impact on the supply of gas these producers have traditionally added to our reserves? Is it fair to substitute one form of federal intervention for another and change the rules of the game which independent producers have been operating under?

C. According to the Energy Information Administration (EIA) the decontrol plan originally proposed to the Congress by President Reagan would provide consumers with 300 billion cubic feet less gas in 1985 and 800 billion cubic feet less gas in 1990 than current law. If we assume the EIAs findings are correct then how would natural gas consuming states like Pennsylvania be better off from the standpoint of supply if S. 1715 is enacted?

Answer: A. While I am not completely familiar with S. 1715, I understand that one provision of S. 1715 would replace the price determined by existing indefinite price escalator clauses in certain designated contracts with one that more closely approximates the current market value of the gas. The effect of this substitution on each pipeline would depend on whether the pipeline's average gas cost was now above or below the market level. For pipelines with gas costs above the market level, the substitution should lower gas costs; for some other pipelines, it may raise gas costs. My understanding is that the principal economic studies of the impact of such a measure suggest that the nationwide average cost of gas would be little changed.

B. Since I do not have indepth knowledge of S. 1715, it is difficult for me to predict the effect on the supply of gas from existing wells. In theory, the measure should have an effect on the incentive to drill new wells. However, at present the most serious disincentive to drilling new wells is that there is little or no demand for additional gas.

I fully support the overall objectives of S. 1715 which will enable a smooth transition to a freer market and provide additional incentives for future gas supplies. More importantly, I believe that S. 1715 will protect the interests of the American consumer during the transition.

C. As I understand it, there has been extensive debate over the assumptions used in the Energy Information Administration (EIA) forecast of gas supplies under existing statutes and proposed legislation. Since I am not familiar with the substance of the EIA report, I am unable to provide any position on the accuracy of the EIA report at this time.

Has NGPA Worked?

Question: In your opinion - solely from the perspective of supply, has the NGPA worked?

Answer: In my opinion, the NGPA has improved on a near-term and temporary basis, the problem of short supply. However, the price rigidity that has resulted from the long period of federal regulation is now contributing to the problem of an unmarketable surplus of natural gas and decreased exploration and development of new reserves.

Price Escalator Clauses

Question: What is your position with regard to the operation of indefinite price escalators, specifically, Most Favored Nation clauses and other escalator clauses which are based on the price of competing energy commodities such as oil? Should such clauses be abolished if they have no bearing on market realities and can only cause unreasonable price spikes?

Answer: If it is desirable to have natural gas sold pursuant to long-term contracts, escalator clauses will continue to be necessary, however, they must be responsive to market conditions. It is my understanding that two types of such market-responsive clauses are in current use: (1) The so-called "market out" which can be exercised by both the producer and the pipeline when the contract price gets too far out of line with current market prices, and (2) the "net back" clause which sets the wellhead price equal to the price of the alternative fuel with which the gas must compete, less transportation and distribution costs. I believe that it is still too early to say which of the two kinds of clauses will be most effective in maintaining natural gas prices at a market level. It is possible that one clause will work best for some pipelines and a different clause will work better for other pipelines. I therefore think that it would be unwise if attempts are made to dictate the specific contractual means that pipelines must use in order to maintain long-term contract prices at the market level.

Increase in Natural Gas Prices

Question: As you may know, natural gas prices have been increasing for many reasons. One reason cited by many is abusive pipeline purchasing practices.

What in your estimation would constitute an abusive pipeline purchasing practice?

What factors should be considered in determining whether a pipeline is abusive in its natural gas purchasing practices?

What in your estimation should the role of the FERC be in curbing such practices?

Answer: As I understand it, the first two questions address the meaning of the phrase "fraud, abuse or similar grounds," an issue that is pending before the Commission in Columbia Gas Transmission Corp., Docket No. TA81-1-21, et al. Because that issue is one that is pending before the Commission, I am advised in light of applicable legal precedent, including the Pillsbury case, that it would be inappropriate for me to comment at this time.

Your last question is one which I can address. I believe that, to the extent that the Commission has jurisdiction, authority, and responsibility, it should take steps to prevent pipelines from acting in a manner inconsistent with their obligations under the statutes the Commission administers and the Commission's regulations.

Comprehensive Natural Gas Legislation

Question: What is your position with regard to S. 1715 comprehensive natural gas legislation which has been reported to the Senate by the Committee on Energy and Natural Resources without a recommendation?

Answer: I am familiar generally with the approach taken in S. 1715, and I support its major provisions. It is my view that an equilibrium of natural gas supply and demand will occur if prices are allowed to rise or fall to their market value. I also believe that S. 1715 will protect the interest of the American consumer during a carefully orchestrated transition period.

Take-or-Pay Obligation

Question: In your opinion should the Congress act to modify abusive take-or-pay obligations which have served to deny consumers access to the cheapest gas available? How should such take-or-pay obligations be modified? What factors would you consider in making such modifications? Should such modifications be limited to present contracts, future contracts or both?

Answer: While take-or-pay provisions in producer sales contracts are frequently considered to be the major contributor to the current demand-supply imbalance, I would suggest that they also serve some important purposes. For example, they enable producers to recover their investments in production properties, they guarantee the producer a revenue stream, and they provide funds for future exploration and development activities. I believe it is generally agreed that gas marketing problems have been the result of high take-or-pay obligations contained in contracts executed since enactment of the NGPA along with contract prices that do not reflect the market value of the gas. The Administration's legislative proposal in S. 615 would attempt to approach the problem by addressing both take-or-pay and price considerations. So too would the draft bill reported out by the Senate Committee on Energy and Natural Resources, identified as S. 1715. I support this approach to a very difficult problem.

QUESTION SUBMITTED BY SENATOR FRANK H. MURKOWSKI

Alaska Natural Gas Transportation System

Question: It has been over five years since the Alaska Natural Gas Transportation System (ANGTS) was selected pursuant to the provisions of The Alaska Natural Gas Transportation Act of 1976, and the construction of a pipeline has yet to commence.

A. What, if anything, can the FERC do to alleviate this situation?

B. Is your mind open to considering alternatives to ANGTS if the alternative promises earlier commercial production of Alaska North Slope natural gas?

C. Is your mind open to considering export proposals for Alaska gas if an export project could be completed before ANGTS could be completed?

Answer: A. As of this juncture, I understand that the Commission has completed its work on all ANGTS matters, including matters covered in the Waiver of Law as provided by Pub. L. No. 97-93, 95 Stat. 1204 (1981), currently pending before it. I am confident that the Commission will stand ready to act -- expeditiously, and with commitment of whatever staff resources are necessary to meet the mandate of Section 9 of ANGTS - in the event that the ANGTS sponsors succeed in arranging financing for the project. In this regard, the Commission's procedural order issued on April 30, 1982 in Docket Nos. CP78-123, et al., and CP80-435 established expedited procedures for considering applications for final certification of the ANGTS at such time as the project sponsors may have occasion to file such applications.

B. I most certainly have an open mind with respect to consideration of alternatives to the ANGTS, just as I must and do have an open mind with respect to any certificate application that may come before the Commission. Such applications would be given prompt, fair and full consideration. Such consideration, of course, would have to take due account of the legal mandate of ANGTA to the extent, if any, that it may limit or foreclose certification of alternatives to the ANGTS, as well as any future legislation that may be enacted to amend or supersede ANGTA.

C. With regard to proposals to export Alaskan gas, I am advised by the FERC General Counsel that under the Department of Energy Organization Act, 42 U.S.C. §§ 7107-7352, and currently applicable Department of Energy delegation orders, the Commission does not have jurisdiction to approve exports of natural gas. The authority to approve exports of natural gas resides in the Secretary of Energy, who has delegated it to the Administrator of the Economic Regulatory Administration.

○